

# OREGON BULLETIN

Supplements the 2011 *Oregon Administrative Rules Compilation*

**Volume 50, No. 6**  
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For April 18, 2011–May 13, 2011



Published by  
**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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## OTHER NOTICES

### OPPORTUNITY TO COMMENT PROPOSED NO FURTHER ACTION SHEPARD GREENHOUSES AST RELEASES AURORA, OREGON

**COMMENT DUE:** June 30, 2011

**PROJECT LOCATION:** 23150 Boones Ferry Rd, Aurora

**PROPOSAL:** Pursuant to Oregon Revised Statute (ORS) 465.315, the Oregon Department of Environmental Quality (DEQ) is proposing to issue a No Further Action (NFA) determination for the Shephard Greenhouses AST Releases site located at 23150 Boones Ferry Road in Aurora, Oregon.

The Voluntary Cleanup Program has reviewed assessment and cleanup activities performed at the site. The site has been in long term commercial agricultural use. Multiple above ground storage tanks (ASTs) were located on the property and primarily used to heat greenhouses. Petroleum releases from the ASTs were documented and cleanup actions were performed. Based on the results of the assessments and cleanup actions, additional work is not required at the site.

Additional information concerning site-specific investigations and remedial actions is available in DEQ's Environmental Cleanup Site Information (ECSI) database located on the web at <http://www.deq.state.or.us/lq/ecsi/ecsi.htm> under Site ID 5461.

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

**HOW TO COMMENT:** The public comment period will end on June 30, 2011. Please address all comments and/or inquiries to project manager at the following address:

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

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

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

### REQUEST FOR COMMENTS PROPOSED APPROVAL OF CLEANUP FOR USDA FOREST SERVICE SISTERS SITE

**COMMENTS DUE:** 5 p.m. July 1, 2011

**PROJECT LOCATION:** Highway 20 and Pine Street, Sisters, Oregon

**PROPOSAL:** The Oregon Department of Environmental Quality proposes to approve of cleanup actions performed by the U.S. Forest Service and Oregon Department of Transportation to remove arsenic, petroleum hydrocarbons, pentachlorophenol, dioxins, and furans from soil at the Sisters Forest Service Compound site. The proposed approval is also known as a no further action determination.

**HIGHLIGHTS:** The site consists of various Forest Service buildings on 80 acres dating back to the 1950s. ODOT also occupies six acres of the site with a maintenance shop and sand shed. The Forest Service and ODOT, in preparation for sale of the property, conducted several soil cleanup actions over the last few years. These soil excavation and disposal cleanup actions addressed the following pollutants at the site: arsenic in a burn pile; petroleum hydrocarbons at a chainsaw maintenance area; pentachlorophenol (a wood treatment chemical), dioxins and furans from a suspected fence post treatment operation; and petroleum hydrocarbons under a used oil tank. Pollutant levels remaining in soil after the cleanup actions are protective of human health and the environment.

**HOW TO COMMENT:** Send comments by 5p.m., Friday July 1, 2011 to DEQ Project Manager, Marcy Kirk, DEQ Bend Office, 475 NE Bellevue Drive, Suite 110, Bend, OR 97701, or to [kirk.marcy@deq.state.or.us](mailto:kirk.marcy@deq.state.or.us). The project file may be reviewed by appointment at DEQ's Bend Office or online. To schedule an appointment to review the file or ask questions, please contact Marcy at 541-633-2009. To access site summary information and the staff report in DEQ's Environmental Cleanup Site Information database on the Internet, go to [www.deq.state.or.us/lq/ECSI/ecsidetail.asp?seqnbr=3029](http://www.deq.state.or.us/lq/ECSI/ecsidetail.asp?seqnbr=3029).

**THE NEXT STEP:** DEQ will consider all public comments received by the close of the comment period before making a final decision regarding the proposed cleanup approval.

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

People with hearing impairments may call 711.

### A CHANCE TO COMMENT ON PROSPECTIVE PURCHASER AGREEMENT STIPULATION AND CONSENT JUDGMENT CERTIFICATE OF COMPLETION FOR NORTH PORTLAND ROAD (SOUTH LARSEN)

**PUBLICATION:** Secretary of State's Bulletin, The Oregonian  
**PUBLISHING DATE:** Wednesday June 1, 2011

**COMMENTS DUE:** Friday July 1, 2011

**PROJECT LOCATION:** 10145 North Portland Road, Portland, Oregon

**PROPOSAL:** Pursuant to Oregon Revised Statute, ORS 465.320, the Department of Environmental Quality (DEQ) issues this notice regarding completion of cleanup actions performed at the subject property pursuant to a Prospective Purchaser Agreement (PPA) issued in December 2005 in the form of a Stipulation and Consent Judgment (Case Number 0512-13315). The DEQ will consider public comments prior to issuing a cleanup Certification of Completion. Send written comments on the proposed certification to Anna Coates, Oregon DEQ, Northwest Region, 2020 SW 4th Avenue, Suite 400, Portland, Oregon 97201, or e-mail to [coates.anna@deq.state.or.us](mailto:coates.anna@deq.state.or.us) by 5 p.m. on Friday July 1, 2011.

**HIGHLIGHTS:** The North Portland Road, LLC (NPR) Site is an approximately 15-acre parcel. The Site is also known as the South Larsen Site and is separated from the Columbia Slough by the approximate 22-acre parcel known as North Larsen, currently owned by the City of Portland.

The Site has been used for trucking and transportation-related uses since the mid 1960s, included truck maintenance and tanker truck cleaning. Environmental testing at the site prior to the PPA identified releases of metals, petroleum hydrocarbons, volatile organic compounds (VOCs), phenols, phthalates, pesticides, polychlorinated biphenyls (PCBs), and cyanide. A chlorinated solvent plume in groundwater was also identified.

The Consent Judgment required: a payment into a DEQ fund for investigation and remedial actions in the Columbia Slough sediments, investigation and cleanup of surface soils, stormwater system improvements to protect the Slough from future releases, treatment of the chlorinated solvent plume source area, assessment of the on-site water supply well and evaluation of other groundwater beneficial uses, and a risk evaluation for worker exposure to solvent vapors, and installation of engineering and institutional controls as necessary.

NPR has satisfactorily completed the investigation and cleanup work required by the agreement and no further remedial actions are required at the Site to protect public health, safety, and welfare of the environment. The proposed certification decision would be conditioned on: undertaking site management decisions in accordance with the DEQ-approved Site Management Plan.

## OTHER NOTICES

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**HOW TO COMMENT:** Written comments can be sent to DEQ Northwest Region at 2020 SW Fourth Ave., Suite 400, Portland, Oregon 97201-4987. To view the project files please call Dawn Weinberger, File Review Specialist, at (503) 229-6729 to schedule an appointment (ask for ECSI files #3337 and #186). If you have any questions, please call the DEQ project manager, Anna Coates, at 503-229-5213 or by email at [coates.anna@deq.state.or.us](mailto:coates.anna@deq.state.or.us).

**THE NEXT STEP:** Once the public comment period has closed DEQ will consider all comments before making a decision concerning the Certification of Completion.

# 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 Architect Examiners**  
**Chapter 806**

**Rule Caption:** Rules of Procedure.  
**Stat. Auth.:** ORS 671.125  
**Other Auth.:** Oregon Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure  
**Stats. Implemented:** ORS 183.341 & 671.080  
**Proposed Amendments:** 806-001-0004, 806-001-0005  
**Last Date for Comment:** 6-30-11, 4:30 p.m.  
**Summary:** This rule amendment is needed to adopt the most recent version of the Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure under the Administrative Procedures Act.  
**Rules Coordinator:** Carol Moeller  
**Address:** Oregon Board of Architect Examiners, 205 Liberty St. NE, Suite A, Salem, OR 97301  
**Telephone:** (503) 763-0662

.....  
**Board of Geologist Examiners**  
**Chapter 809**

**Rule Caption:** Update Board Fees.  

Date:	Time:	Location:
6-16-11	9-10 a.m.	707 13th St. SE, Suite 260 Conference Rm. B Salem, OR 97301

  
**Hearing Officer:** Christine Valentine  
**Stat. Auth.:** ORS 182.466 & 672.505-672.705  
**Stats. Implemented:** ORS 182.466, 672.585 & 672.705  
**Proposed Amendments:** 809-010-0001  
**Last Date for Comment:** 6-16-11  
**Summary:** Amended proposed rule OAR 809-010-0001: Fees updates the fee charged by the Board for the Practice Section of the national examination for geologist certification, reflecting a fee increase made by the national Association of State Boards of Geology (ASBOG). ASBOG provides standardized written examinations for determining qualifications of applicants seeking licensure as pro-

fessional geologists. This proposed rule also proposes reinstatement of two fees that were removed inadvertently during a past rulemaking. The two fees are designed to cover administrative costs associated with maintenance of examination files for passing examinees who do not register in Oregon and for providing a detailed list of registrants above and beyond the version routinely available via the Board's website. The Board presents the fee rule updates for review by its registrants and other interested parties. Individuals may view a copy of the fee rule on the Board's web page or may request a copy by contacting the Board's administrative office.

**Rules Coordinator:** Christine Valentine  
**Address:** Board of Geologist Examiners, 707 13th St. SE, Suite 260, Salem, OR 97301  
**Telephone:** (503) 566-2837

.....  
**Board of Pharmacy**  
**Chapter 855**

**Rule Caption:** Rules for criminal background checks on employees and potential employees, and amend pharmacist licensing rules.  
**Stat. Auth.:** ORS 18.534, 676.303 & 689.205  
**Stats. Implemented:** ORS 181.534  
**Proposed Adoptions:** 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  
**Proposed Amendments:** 855-019-0120  
**Proposed Repeals:** 855-010-0050(T), 855-010-0055(T), 855-010-0057(T), 855-010-0060(T), 855-010-0065(T), 855-010-0067(T), 855-010-0070(T), 855-010-0075(T), 855-010-0080(T), 855-010-0085(T), 855-010-0087(T)  
**Last Date for Comment:** 6-16-11, 4:30 p.m.  
**Summary:** 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. These rules replace temporary rules adopted in January 2011. The amendments to 855-019-0120 provides a one-year waiting period for applicants for licensure as a pharmacist who have filed the MPJE or NAPLEX three times.  
Copies of the full text of proposed rules can be obtained from the Board's web site, [www.pharmacy.state.or.us](http://www.pharmacy.state.or.us), or by calling the Board office (971) 673-0001  
**Rules Coordinator:** Karen MacLean  
**Address:** Board of Pharmacy, 800 NE Oregon St., # 150, Portland, OR 97232  
**Telephone:** (971) 673-0001

.....  
**Construction Contractors Board**  
**Chapter 812**

**Rule Caption:** Correct cite reference, amend course fee, continuing education credits.  

Date:	Time:	Location:
6-14-11	11 a.m.	West Salem Roth's IGA Santiam Rm. 1130 Wallace Rd. Salem, OR

  
**Hearing Officer:** Rob Hernandez  
**Stat. Auth.:** ORS 183.310-183.500, 670.310, 701.126, 701.235, 701.515, 701.992 & 701.995  
**Stats. Implemented:** ORS 87.093, 279C.590, 701.005, 701.026, 701.042, 701.046, 701.073, 701.091, 701.098, 701.106, 701.109, 701.126, 701.227, 701.305, 701.315, 701.330, 701.345, 701.480, 701.485, 701.510, 701.515, 701.992 & 701.995  
**Proposed Amendments:** 812-005-0800, 812-021-0016, 812-021-0019  
**Last Date for Comment:** 6-14-11, Close of Hearing  
**Summary:** • 812-005-0800 is amended to correct a cite reference.

# NOTICES OF PROPOSED RULEMAKING

- 812-021-0016 is amended to revise the fee from \$35 per credit hour to \$15.
- 812-021-0019 is amended to grant credit for non-traditional education (here, activities more like experience) is not the best policy for implementing CCB's residential continuing education program.

**Rules Coordinator:** Catherine Dixon

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

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

\*\*\*\*\*

## Department of Administrative Services Chapter 125

**Rule Caption:** The Health Professional Regulatory Organization shall provide periodic reports and peer review audits in support of its primary purpose of protecting the public.

Date:	Time:	Location:
6-15-11	2:30-3:30 p.m.	Executive Bldg. 155 Cottage St. NE, 5th Floor Salem, OR 97301

**Hearing Officer:** Tamara Brickman

**Stat. Auth.:** ORS 426.385, 675.070, 675.100, 675.130, 675.300, 675.310, 675.320, 675.510, 675.540, 675.583, 675.590, 675.600, 675.745, 675.775, 675.785, 676.165, 676.608, 677.010, 677.188, 677.190, 677.235, 677.250, 677.270, 677.275, 677.415, 677.417, 677.655, 678.111, 678.112, 678.140, 678.150, 678.442, 678.780, 678.800, 679.140, 679.230, 679.250, 679.290, 681.350, 681.400, 681.410, 681.450, 683.140, 683.250, 683.260, 684.010, 684.100, 684.103, 684.130, 684.140, 684.157, 685.110, 685.160, 685.170, 686.120, 686.130, 686.210, 687.051, 687.081, 687.115, 688.140, 688.160, 688.525, 688.545, 689.005, 689.115, 689.165, 689.195, 689.255, 689.265, 689.405, 689.508, 691.485, 691.505, 691.535, 692.180, 692.300 and 692.320, 2009 OL Ch. 43, Sec. 38, (Enrolled SB 131), 2009 OL Ch. \_\_\_\_, Sec. 50, (Enrolled SB 177), repealing ORS 689.125, 2009 OL Ch. 43 (Enrolled SB 131) & 2009 OL Ch. \_\_\_\_, Sec. 2

**Other Auth.:** HB 2118

**Stats. Implemented:** ORS 676.160

**Proposed Adoptions:** 125-300-0200

**Last Date for Comment:** 6-15-11, 5 p.m.

**Summary:** The Health Professional Regulatory Organization shall provide periodic reports and peer review audits in support of its primary purpose of protecting the public.

**Rules Coordinator:** Linda Pavis

**Address:** Department of Administrative Services, 155 Cottage St. NE, U90, Salem, OR 97301

**Telephone:** (503) 378-5522

\*\*\*\*\*

## Department of Agriculture Chapter 603

**Rule Caption:** Labeling and product registration rules for animal feeds.

Date:	Time:	Location:
6-20-11	10 a.m.	ODA, 635 Capitol St. NE Salem, OR 97301

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 633.006-633.089, 633.992, 561.605 & 561.620

**Stats. Implemented:**

**Proposed Adoptions:** 603-058-0110, 603-058-0120, 603-058-0125, 603-058-0130, 603-058-0140, 603-058-0150, 603-058-0160, 603-058-0170, 603-058-0180, 603-058-0190, 603-058-0200, 603-058-0210, 603-058-0220, 603-058-0230, 603-058-0240, 603-058-0250, 603-058-0260, 603-058-0270, 603-058-0280, 603-058-0290

**Proposed Repeals:** 603-058-0001, 603-058-0002, 603-058-0005, 603-058-0010, 603-058-0011, 603-058-0020, 603-058-0021, 603-058-0026, 603-058-0028, 603-058-0029, 603-058-0031, 603-058-0032, 603-058-0036, 603-058-0040, 603-058-0051, 603-058-0052, 603-058-0065, 603-058-0070

**Last Date for Comment:** 6-27-11

**Summary:** Replaces existing feed rules with model rules developed by the American Association of Feed Control Officials. Rules appear in same order as their sections appear on a feed label. Increases disclosure of nutrients on custom dairy and hog feeds. Establishes action levels for adulterants of concern to Oregon animal owners. Adds the requirements for manufacturers to use a lot number. Establishes good manufacturing practices to reduce adulteration. Adopts rules to prevent the amplification of bovine spongiform encephalopathy via feed. Clarifies fee structure for company licenses. Provides for referee samples at request of the animal feeder. Establishes timelines to provide certificates of free sale to firms exporting commercial feeds.

**Rules Coordinator:** Sue Gooch

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

**Telephone:** (503) 986-4583

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## Department of Agriculture, Oregon Raspberry and Blackberry Commission Chapter 611

**Rule Caption:** Amend 611-010-0005 to change "Casual Sale" to not more than 5,000 lbs during calendar year.

Date:	Time:	Location:
6-15-11	2 p.m.	4845 B SW Dresden Ave. Corvallis, OR 97330

**Hearing Officer:** Philip Gutt

**Stat. Auth.:** ORS 576

**Other Auth.:** OAR 611-010-0005

**Stats. Implemented:** ORS 576.325 & 576.335

**Proposed Amendments:** 611-010-0005

**Last Date for Comment:** 6-10-11, 5 p.m.

**Summary:** Amend OAR 611-010-0005(3) "Casual Sale" to state: "Casual Sale" any sale or sales of caneberries made by the producer direct to the consumer where the total accumulated sales during a calendar year is not more than 5,000 lbs.

This proposed rule will allow the commodity commission to collect assessments on Casual Sales of more than 5,000 lbs.

**Rules Coordinator:** Rachel Denué

**Address:** Department of Agriculture, Raspberry and Blackberry Commission, 4845 B SW Dresden Ave., Corvallis, OR 97333

**Telephone:** (541) 758-4043

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

**Rule Caption:** Abolishing Temporary Apprenticeship Licenses (180 Day Rule).

Date:	Time:	Location:
6-21-11	9 a.m.	1535 Edgewater St. NW Salem, OR 97304

**Hearing Officer:** Jim Hanson

**Stat. Auth.:** ORS 479.730

**Stats. Implemented:** ORS 479.630

**Proposed Amendments:** 918-282-0270

**Proposed Repeals:** 918-282-0280

**Last Date for Comment:** 6-24-11, 5 p.m.

**Summary:** The existing rule allows an electrical apprentice from another state that is party to the state apprenticeship reciprocal agreement to receive a temporary apprentice license to work in Oregon for a period not to exceed 180 days. The rule allows an apprentice to work on a single project up to 180 days. This license cannot be renewed.

This rule would abolish OAR 918-282-0280, Temporary Apprenticeship Licenses, which imposes the 180-day time limit, single project, and non-renewal restrictions. The rule would add provisions for reciprocal apprentices in OAR 918-282-0270, Apprentices, and clarify that a reciprocal apprentice may work under indirect supervision if they meet the requirements for an indirect supervision card. This

## NOTICES OF PROPOSED RULEMAKING

rule is in effect currently as a temporary rule, which this rulemaking proposes to make permanent.

**Rules Coordinator:** Stephanie Snyder

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

**Telephone:** (503) 373-7438

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**Rule Caption:** Adopts provisions for the Oregon Commercial Reach Code.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-21-11	10 a.m.	1535 Edgewater St. NW Salem, OR 97304

**Hearing Officer:** Aeron Teverbaugh

**Stat. Auth.:** ORS ORS 183.335, 455.020, 455.210, 455.496 & 455.500

**Stats. Implemented:** ORS 183.335, 455.020, 455.210 & 455.500

**Proposed Adoptions:** Rules in 918-465

**Last Date for Comment:** 6-24-11, 5 p.m.

**Summary:** The proposed rules implement Senate Bill 79 (2009) requiring the director of the Department of Consumer and Business Services to adopt a code separate from the state building code that is a set of optional construction standards designed to increase the energy efficiency of buildings above the mandatory statewide code. The proposed rules adopt the second public version of the International Green Construction Code (IGCC) with significant Oregon specific amendments including provisions from the 2012 International Energy Conservation Code and ASHRAE 90.1 as the Oregon Commercial Reach Code (OCRC).

**Rules Coordinator:** Stephanie Snyder

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

**Telephone:** (503) 373-7438

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**Rule Caption:** Expands scope of work that may be performed under mechanical minor installation label programs.

**Stat. Auth.:** ORS 455.154

**Stats. Implemented:** ORS 455.154

**Proposed Amendments:** 918-100-0020, 918-100-0040

**Last Date for Comment:** 6-24-11, 5 p.m.

**Summary:** The proposed rule changes relate to OAR Chapter 918, Division 100, which contains the Department of Consumer and Business Services, Building Codes Division's rules relating to optional mechanical minor installation label programs. Under these programs, a local building department may, but is not required to, allow certain minor mechanical construction work to be performed under a minor installation label. Under the current rule, mechanical minor installation labels may only be used in commercial and industrial buildings. The proposed rule changes would permit mechanical minor installation labels to be used in residential occupancies. The proposed changes would also expand the scope of work allowed under mechanical minor installation labels to include the addition of air conditioning units to pre-existing ductwork. Finally, the proposed changes would clarify that only contractors licensed by the construction contractors board may purchase and use mechanical minor installation labels for residential occupancies.

**Rules Coordinator:** Stephanie Snyder

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

**Telephone:** (503) 373-7438

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**Rule Caption:** Wineries can use the Agricultural Building Exemption in ORS 455.315.

**Stat. Auth.:** ORS 455.030

**Stats. Implemented:** ORS 455.068 & 455.315

**Proposed Adoptions:** 918-460-0100

**Last Date for Comment:** 6-24-11, 5 p.m.

**Summary:** ORS 455.068 states in part that any construction standard adopted by the Department of Consumer and Business Services

shall be applicable to all wineries producing wine. ORS 455.315 exempts certain structures used in the operation of a farm from the provisions of the Oregon Structural Specialty Code. This rule clarifies that the requirement for equal applicability of construction standards to all wineries does not affect the ability of a winery to use the exemption for agricultural buildings in ORS 455.315.

**Rules Coordinator:** Stephanie Snyder

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

**Telephone:** (503) 373-7438

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

**Rule Caption:** Adoption of Rules to Implement Children's Reinsurance Program.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-21-11	10 a.m.	Labor & Industries Bldg. Conference Rm. F 350 Winter St. NE Salem, OR

**Hearing Officer:** Jeannette Holman

**Stat. Auth.:** ORS 743.731

**Other Auth.:** ORS 731.244

**Stats. Implemented:** ORS 731.731 & 2011 OL, Ch. \_\_\_ (Enrolled SB 514) (2011)

**Proposed Adoptions:** 836-100-0011, 836-100-0016, 836-100-0025, 836-100-0030, 836-100-0035, 836-100-0040, 836-100-0045

**Proposed Repeals:** 836-100-0015

**Proposed Ren. & Amends:** 836-100-0010 to 836-100-0020

**Last Date for Comment:** 6-28-11

**Summary:** This rulemaking is to establish a Children's Reinsurance Program to promote health insurance coverage of children under the age of 19 in Oregon. This program would spread the risk of enrolling high-risk children in the commercial individual market on a guaranteed issue basis with no pre-existing condition exclusion period as now required under federal law. The rules establish the requirements and procedures for a carrier to cede coverage for a child under the age of 19 to the Children's Reinsurance Program.

**Rules Coordinator:** Sue Munson

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

**Telephone:** (503) 947-7272

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### Department of Environmental Quality Chapter 340

**Rule Caption:** Revised "Initiation Level" Rule for Persistent Pollutants in Wastewater.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-15-11	4 p.m.	DEQ Headquarters 811 SW Sixth Ave. Portland, OR

**Hearing Officer:** DEQ staff

**Stat. Auth.:** ORS 468.020 & 468B.141

**Other Auth.:** ORS 183.325-183.410

**Stats. Implemented:** ORS 468B.138-468B.144

**Proposed Amendments:** 340-045-0100

**Last Date for Comment:** 6-30-11, 5 p.m.

**Summary:** The proposed rule suspends the requirement to develop a reduction plan for cholesterol and coprostanol, and allows for DEQ to focus the list of pollutants for which permittees that become subject to the rule in the future must monitor. Proposed revisions to the rule also provide clarity regarding the circumstances under which a permittee has met the requirements and no longer needs to have a reduction plan in place.

**Rules Coordinator:** Maggie Vandehey



# NOTICES OF PROPOSED RULEMAKING

**Address:** Department of Environmental Quality, 811 SW Sixth Ave.,  
Portland, OR 97204-1390  
**Telephone:** (503) 229-6878

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## Department of Forestry Chapter 629

**Rule Caption:** Adopts the 2011 Elliott State Forest Management Plan as an Administrative Rule.

Date:	Time:	Location:
7-19-11	6-9 p.m.	North Bend Public Library 1800 Sherman Ave. North Bend, OR 97459
7-20-11	6-9 p.m.	OR Dept. of Fish & Wildlife 4192 North Umpqua Hwy. Roseburg, OR 97470

**Hearing Officer:** Gregg Cline

**Stat. Auth.:** ORS 526.016(4), 526.041 & 530.490

**Other Auth.:** OAR 629-035-0030 & 629-035-0105

**Stats. Implemented:** ORS 530.050 & 530.500

**Proposed Amendments:** 629-035-0105

**Last Date for Comment:** 8-1-11

**Summary:** An amended, OAR 629-035-0105 will adopt and incorporate by reference the 2011 Elliott State Forest Management Plan ("Forest Management Plan" or "Plan") as required by OAR 629-035-0030(6)(a). The rule adopts the Forest Management Plan by reference due to the voluminous nature of the Plan. Copies of the Plan may be viewed on the Department's web page at: [http://egov.oregon.gov/ODF/STATE\\_FORESTS/elliott.shtml](http://egov.oregon.gov/ODF/STATE_FORESTS/elliott.shtml) or at the office of the State Forester, and are available upon request.

Written comments must be received by 5:00 pm on August 1, 2011. Submissions should be addressed to the State Forests Planning Specialist, Oregon Department of Forestry, 2600 State Street, OR 97310, sent to [ODFStateForestsComments@odf.state.or.us](mailto:ODFStateForestsComments@odf.state.or.us), or via FAX 503-945-7376.

Comments received by 5:00 pm on August 1, 2011 will be compiled by theme. Department of Forestry staff will respond to the comments and present the information to the State Board of Forestry for its consideration in deciding whether to approve the plan. The Department anticipates the State Board of Forestry will have an opportunity to do so in November 2011. If the Plan is approved and adopted into administrative rule, the date of adoption of the amended rule will be announced in the Oregon Bulletin by the Secretary of State's office. Printing of the final Forest Management Plan will occur once adopted as rule. The final Forest Management Plan will also be available on the Department's website.

**Rules Coordinator:** Sabrina Perez

**Address:** Department of Forestry, 2600 State St., Salem, OR 97310  
**Telephone:** (503) 945-7210

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## 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.

**Stat. Auth.:** ORS 344.530

**Other Auth.:** 34 CFR 361

**Stats. Implemented:** ORS 344.530, 344.540 & 344.550

**Proposed Adoptions:** 582-030-0050

**Proposed Amendments:** 582-001-0010, 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

**Last Date for Comment:** 7-1-11

**Summary:** These proposed rules revise the Office of Vocational rehabilitation Services (OVRs) provision of services and process for providing transportation, modifying vehicles, requirements for main-

taining 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

**Address:** Department of Human Services, Children, Adults and Families Division: Vocational Rehabilitation Services, 500 Summer St. NE, E-83, Salem, OR 97301

**Telephone:** (503) 945-6695

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

**Rule Caption:** Certification change for supported living and proctor care residential services.

Date:	Time:	Location:
6-17-11	11 a.m.	Human Services Bldg. 500 Summer St. NE, Rooms 137CD Salem, OR 97301

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 409.050 & 410.070

**Other Auth.:** ORS 291.261

**Stats. Implemented:** ORS 430.021 & 430.610-430.670

**Proposed Amendments:** 411-328-0570, 411-328-0810, 411-335-0030, 411-335-0050, 411-335-0380

**Proposed Repeals:** 411-328-0570(T), 411-328-0810(T), 411-335-0030(T), 411-335-0050(T), 411-335-0380(T)

**Last Date for Comment:** 6-21-11, 5 p.m.

**Summary:** 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 proposing to permanently change the certification period to five years for:

- OAR chapter 411, division 328, Supported Living Services; and
- OAR chapter 411, division 335, Proctor Care Residential Services.

**Rules Coordinator:** Christina Hartman

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

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**Rule Caption:** Foster Homes for Children with Developmental Disabilities.

Date:	Time:	Location:
6-17-11	1:30 p.m.	Human Services Bldg. 500 Summer St. NE Rooms 137CD Salem, OR 97301

**Hearing Officer:** Staff

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

**Other Auth.:** ORS 291.261

**Stats. Implemented:** ORS 443.830 & 443.835

**Proposed Amendments:** 411-346-0110, 411-346-0150, 411-346-0160, 411-346-0165, 411-346-0190, 411-346-0200, 411-346-0220

**Proposed Repeals:** 411-346-0110(T), 411-346-0150(T), 411-346-0160(T), 411-346-0165(T), 411-346-0190(T), 411-346-0200(T), 411-346-0220(T)

**Last Date for Comment:** 6-21-11, 5 p.m.

**Summary:** 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 proposing to permanently amend 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 pre-

# NOTICES OF PROPOSED RULEMAKING

paredness, and inactive referral status have also been changed to comply with the two year cycle.

**Rules Coordinator:** Christina Hartman

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

**Telephone:** (503) 945-6398

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**Rule Caption:** Developmental Disability Certification and Endorsement.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-17-11	4 p.m.	Human Services Bldg. 500 Summer St. NE Rooms 137CD Salem, OR 97301

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 409.050 & 410.070

**Stats. Implemented:** ORS 409.050 & 410.070

**Proposed Adoptions:** Rules in 411-323

**Last Date for Comment:** 6-21-11, 5 p.m.

**Summary:** The Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is proposing to adopt rules relating to developmental disability certification and endorsement in OAR chapter 411, division 323.

These rules prescribe standards, responsibilities, and procedures for agencies to obtain certification, a Medicaid agency identification number, and endorsement to provide person-centered services to individuals with developmental disabilities.

Agencies will be able to request endorsements to provide the following services:

- 24-hour residential as described in OAR chapter 411, division 325;
- Supported living as described in OAR chapter 411, division 328;
- Proctor care as described in OAR chapter 411, division 335; and
- Employment and alternatives to employment as described in OAR chapter 411, division 345.

**Rules Coordinator:** Christina Hartman

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

**Telephone:** (503) 945-6398

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**Rule Caption:** Community Services Programs – Provider Enrollment, Service Billings, and Service Payments.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-17-11	3 p.m.	Human Services Bldg., 500 Summer St. NE Rooms 137CD Salem, OR 97301

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 409.050, 410.070, 411.060, & 430.640

**Stats. Implemented:** ORS 427.005, 427.007, 430.215, 430.610–430.695, & 443.400 to 443.455

**Proposed Adoptions:** Rules in 411-370

**Last Date for Comment:** 6-21-11, 5 p.m.

**Summary:** In response to the Department of Human Services (DHS), Seniors and People with Disabilities Division's (SPD) transformation efforts and the need to generally streamline operations in order to meet and address current and future budget needs, SPD is proposing to adopt provider enrollment, service billing, and service payment rules for Community Services Programs in OAR chapter 411, division 370.

The proposed rules change the current contracting practices so that it is no longer necessary for local service providers to have service contracts with Community Developmental Disability Programs (CDDPs). Instead, service providers will have a provider enrollment agreement with SPD and will receive direct payments. CDDPs will continue to authorize services delivered by providers and paid directly by SPD.

**Rules Coordinator:** Christina Hartman

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

**Telephone:** (503) 945-6398

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

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-17-11	9:30 a.m.	Human Services Bldg., 500 Summer St. NE Rooms 137CD Salem, OR 97301

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 409.050 & 410.070

**Stats. Implemented:** ORS 430.610, 430.630 & 430.670

**Proposed Adoptions:** Rules in 411-345

**Proposed Amendments:** Rules in 411-345

**Proposed Repeals:** Rules in 411-345, 411-345-0030(T), 411-345-0100(T), 411-345-0260(T)

**Last Date for Comment:** 6-21-11, 5 p.m.

**Summary:** The Department of Human Services, Seniors and People with Disabilities Division (SPD) is proposing to update the employment and alternatives to employment services for individuals with developmental disabilities rules in OAR chapter 411, division 345 to clarify service requirements, eliminate outdated and unnecessary requirements, and change the recertification period to five years in response to legislatively required budget reductions effective October 1, 2010.

The proposed service requirement changes include:

- Identifying services authorized by SPD and covered under the rules;
- Emergency preparedness responsibilities for service providers;
- Process and written documentation of support for individuals through an Individualized Support Plan (ISP);
- Change of frequency for fire or emergency drills from monthly to quarterly; and
- Elimination of the SPD requirement for fire extinguishers in vehicles.

**Rules Coordinator:** Christina Hartman

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

**Telephone:** (503) 945-6398

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## Department of Public Safety Standards and Training Chapter 259

**Rule Caption:** Removes "rebuttable presumption" language and implement plain language standards.

**Stat. Auth.:** ORS 703.230

**Stats. Implemented:** ORS 703.230

**Proposed Amendments:** 259-020-0030

**Last Date for Comment:** 6-21-11, Close of Business

**Summary:** This rule update will remove the language regarding the "rebuttable presumption." The current rule language places the burden of proof on the polygraph examiner who is presumed incompetent and unable to perform their duties. Per DOJ recommendation, that burden of proof lie with the Department. This update also implements plain language standards.

**Rules Coordinator:** Linsay Bassler

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

**Telephone:** (503) 378-2431

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**Rule Caption:** Update form names and processes pertaining to the maintenance process. Housekeeping changes.

**Stat. Auth.:** ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.665

**Stats. Implemented:** ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.665

**Proposed Amendments:** 259-008-0060

# NOTICES OF PROPOSED RULEMAKING

**Last Date for Comment:** 6-21-11, Close of Business

**Summary:** This rule update would remove all reference to Forms F-15M (Multi-Discipline Maintenance Log) and F-15T (Telecommunications/EMD Maintenance Log) and replace with Form F-16 (Maintenance Training Log – Tele/EMD/Multi-Discipline). The maintenance process was changed for the 2009–2010 maintenance period, but the process and form references in this rule were not updated. All references to training points were also removed as requirements to obtain and maintain certification reference training hours, rather than converting them to points. Other obsolete rules references regarding training were also removed. Finally, this update removes obsolete statutory references, updates to OAR references, and makes minor housekeeping changes for clarity.

**Rules Coordinator:** Linsay Bassler

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

**Telephone:** (503) 378-2431

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**Rule Caption:** Update education standards for public safety personnel to include documentary evidence of post-secondary education.

**Stat. Auth.:** ORS 181.640, 181.644 & 183.341

**Stats. Implemented:** ORS 181.640, 181.644 & 183.341

**Proposed Amendments:** 259-008-0010, 259-008-0011

**Last Date for Comment:** 6-21-11, Close of Business

**Summary:** Currently, the minimum standards for employment as a law enforcement officer or telecommunicator/emergency medical dispatcher requires applicants to furnish evidence of a high school diploma or GED. On rare occasions an applicant has completed post-secondary education but has not completed high school or received a GED. This rule update adds language allowing law enforcement applicants to furnish documentary evidence of a four-year, post-secondary degree from an accredited college or university to satisfy the minimum education standard.

**Rules Coordinator:** Linsay Bassler

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

**Telephone:** (503) 378-2431

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**Rule Caption:** Update mandatory and discretionary disqualifier list to mirror current Oregon criminal code.

**Stat. Auth.:** ORS 181.640, 181.661, 181.662, 181.664 & 183.341

**Stats. Implemented:** ORS 181.640, 181.661, 181.662 & 181.664

**Proposed Amendments:** 259-008-0070

**Last Date for Comment:** 6-21-11, Close of Business

**Summary:** Since the time the mandatory and discretionary disqualifier lists were adopted into Oregon Administrative Rule, some issues have been identified that should be addressed through amendments to the current rule.

First, a recent ruling made by the Ninth Circuit Court declared ORS 167.054 (Furnishing sexually Explicit Material to a Child) unconstitutional. This crime remains listed as a mandatory disqualifier because the crime remains in the Criminal Code. A notation has been added to help guide staff and constituents. regarding this crime,

Second, crimes in ORS Chapter 97 (Rights and Duties Relating to Cemeteries, Human Bodies and Anatomical Gifts); Chapter 609 (Animal Control; Exotic Animals.; Dealers); and Chapter 830 (Small Watercraft) have been categorized and added to the discretionary disqualifier list.

Finally, ORS Chapters 496–498 deal with the administration and enforcement of hunting, angling and wildlife regulation. Three crimes associated with violations of these Chapters are included in the current list of discretionary disqualifying crimes, however, an individual may be convicted of a misdemeanor for violating any of the provisions of these chapters with a culpable mental state. Because it is not practical to list every statute that may be violated, the current reference to three specific crimes has been replaced with a broader reference to the relevant chapters to better inform our crim-

inal justice constituents. The appropriate category would be determined on a case-by-case basis. when cases are brought to a policy committee for review.

**Rules Coordinator:** Linsay Bassler

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

**Telephone:** (503) 378-2431

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**Rule Caption:** Amend order of denials/revocations due process; remove Measure 11 crime from fire discrepancy list.

**Stat. Auth.:** ORS 181.640, 181.661, 181.662, 181.664 & 183.341

**Stats. Implemented:** ORS 181.640, 181.661, 181.662 & 181.664

**Proposed Amendments:** 259-008-0070, 259-009-0070

**Last Date for Comment:** 6-21-11, Close of Business

**Summary:** house Bill 2790 was passed during the 2009 legislative session. Section 3 of this Bill amended ORS 181.661 which changed the order of due process for certification denials and revocations.

Also, ORS 163.670 (Using a Child in Displays of Sexually Explicit Conduct) was removed from the list of discretionary disqualifiers for fire service professionals. ORS 163.670 is a Measure 11 crime and is there fore a mandatory disqualifier.

Additional housekeeping changes were made for clarity.

**Rules Coordinator:** Linsay Bassler

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

**Telephone:** (503) 378-2431

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**Rule Caption:** Repeal rules allowing Department employees to act as Department representatives during contested case hearings.

**Stat. Auth.:** ORS 183.452 & 183.457

**Stats. Implemented:** ORS 183.452 & 183.457

**Proposed Repeals:** 259-008-0072, 259-009-0072, 259-060-0305

**Last Date for Comment:** 6-21-11, Close of Business

**Summary:** Oregon Revised Statute previously allowed for Department of Public Safety Standards and training (DPSST) employees or officers to act as Department representatives during a contested case hearing, however, the statute granting this authority has been changed, DPSST is no longer authorized to use lay representatives in contested case hearings. The agency is represented by the Oregon Department of Justice at all such proceedings. This proposed rule update repeals the rule defining this authority found in chapter 259, division 008 (Criminal Justice), division 009 (Fire Service) and division 060 (Private Security).

**Rules Coordinator:** Linsay Bassler

**Address:** Department of Public Safety Standards and Training, 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:** Eligibility for a Hardship or Probationary Driver Permit

**Stat. Auth.:** ORS 184.616, 184.619, 802.010, 807.240, 807.252 & 807.270

**Stats. Implemented:** ORS 807.062, 807.240, 807.250, 807.270, 809.265, 809.380, 809.390, 809.419, 809.421, 813.500 & 813.602

**Proposed Amendments:** 735-064-0020

**Last Date for Comment:** 6-21-11

**Summary:** OAR 735-064-0020 establishes who may apply for a hardship or probationary permit and lists those suspensions or revocations that disqualify a person from being issued a hardship or probationary permit. Under ORS 807.240(3)(d), to qualify for a hardship permit a person must show that he or she “is not incompetent to drive nor a habitual incompetent, reckless or criminally negligent driver as established by the person’s driving record.” A person who is convicted of driving under the influence of intoxicants is required

# NOTICES OF PROPOSED RULEMAKING

to install an ignition interlock device (IID) to prevent the person from driving after consuming alcohol. ORS 813.602(6) requires DMV to suspend a person's driving privileges for tampering with an IID. Tampering with an IID shows the person is a reckless driver and does not qualify for a hardship permit. Currently, DMV will not issue a hardship permit to a person whose driving privileges are suspended due to tampering with an IID. DMV proposes to amend OAR 735-064-0020 to specify in administrative rule that a person whose driving privileges are suspended for tampering with an IID may not apply for a hardship permit.

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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**Rule Caption:** Ending DMV's Requirement of a DUII Treatment Completing Certificate to Reinstate Driving Privileges Following Suspension.

**Stat. Auth.:** ORS 184.616, 184.619 & 802.010

**Stats. Implemented:**

**Proposed Repeals:** 735-070-0085

**Last Date for Comment:** 6-21-11

**Summary:** OAR 735-070-0085 was adopted in 1988 and requires a person convicted by an Oregon court of driving under the influence of intoxicants to provide to DMV a DUII Treatment Completion Certificate in order to reinstate the mandatory suspension of driving privileges. At the time this rule was adopted, completion of a treatment program required a finding that the person had a problem condition involving alcohol or controlled substances, which directly tied to a driver's qualification for driving privileges under ORS 807.060(4). However, ORS 813.020 was amended to require everyone convicted of DUII to complete a treatment program. ORS 809.380 requires DMV to reinstate suspended driving privileges without requalification, except that the department may require evidence the person is qualified for driving privileges. DUII treatment is no longer tied to a driver's qualification for driving privileges under ORS 807.060(4), so DMV proposes to repeal OAR 735-070-0085.

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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## **Employment Department Chapter 471**

**Rule Caption:** Allow employer hearing requests relating to Unemployment Insurance tax by email and secure website.

**Stat. Auth.:** ORS 657.610

**Stats. Implemented:**

**Proposed Amendments:** 471-040-0005

**Last Date for Comment:** 6-22-11, 5 p.m.

**Summary:** 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.

**Rules Coordinator:** Courtney Brooks

**Address:** Employment Department, 875 Union St. NE, Salem, OR 97311

**Telephone:** (503) 947-1724

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**Rule Caption:** Revises prevailing rate of pay to use median instead of average wage.

**Stat. Auth.:** ORS 657.610

**Stats. Implemented:** ORS 657

**Proposed Amendments:** 471-030-0037, 471-030-0038

**Last Date for Comment:** 6-23-11, 5 p.m.

**Summary:** The proposed change replaces "average" with "median" for the rate of pay of an individual, as used in determining suitable work. Using the average rate of pay takes into account wages paid over all individuals for a particular occupation. This can result in an average not being representative for wages in a field, as it can be skewed by a few highly paid workers. The median wage provides a better estimate of the prevailing rate of pay for a particular occupation.

**Rules Coordinator:** Courtney Brooks

**Address:** Employment Department, 875 Union St. NE, Salem, OR 97311

**Telephone:** (503) 947-1724

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

**Rule Caption:** Clarifies which individuals working in recorded programs must have background checks.

**Stat. Auth.:** ORS 657.610

**Stats. Implemented:**

**Proposed Amendments:** 414-425-0010, 414-425-0030, 414-450-0010, 414-450-0030

**Last Date for Comment:** 6-23-11, 5 p.m.

**Summary:** Clarifies which individuals working in school age and preschool recorded programs must have criminal background checks.

**Rules Coordinator:** Courtney Brooks

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

**Telephone:** (503) 947-1724

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## **Land Conservation and Development Department Chapter 660**

**Rule Caption:** Amendments to administrative rules to clarify the siting of irrigation reservoirs on farmland.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-22-11	8:30 a.m.	635 Capitol St. NE, Basement Conference Rm. Salem, OR

**Hearing Officer:** LCDC

**Stat. Auth.:** ORS 197.040

**Stats. Implemented:** ORS 215.203, 215.213 & 215.283

**Proposed Amendments:** Rules in 660-033

**Last Date for Comment:** 6-22-11

**Summary:** The proposed amendments to OAR chapter 660, division 33, will clarify and revise the process and requirements for permitting irrigation reservoirs on farmland.

**Rules Coordinator:** Casaria Tuttle

**Address:** Land Conservation and Development Department, 635 Capitol St. NE, Suite 150, Salem, OR 97301

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

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**Rule Caption:** Adopt permanent rules specifically applicable to siting photovoltaic solar power generation facilities.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-22-11	8:30 a.m.	635 Capitol St. NE Basement Hearing Rm. Salem, OR 97301

**Hearing Officer:** LCDC

**Stat. Auth.:** ORS 197.040

**Other Auth.:** Statewide Planning Goals 2 & 3

**Stats. Implemented:** ORS 215.213 & 215.283

**Proposed Amendments:** 660-033-0120, 660-033-130

**Last Date for Comment:** 6-22-11

# NOTICES OF PROPOSED RULEMAKING

**Summary:** The proposed change would amend OAR chapter 660, division 33 regarding the process for siting commercial photovoltaic solar power generation facilities on farm and ranch lands without a Goal 2 exception.

**Rules Coordinator:** Casaria Tuttle

**Address:** Land Conservation and Development Department, 635 Capitol St. NE, Suite 150, Salem, OR 97301

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

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## **Mortuary and Cemetery Board Chapter 830**

**Rule Caption:** Clarifies/updates industry practice, removes repetitive rules, reflects statute changes, reorganizes rules by topic; plain language.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-20-11	9 a.m.	800 NE Oregon St., Suite 445 Portland, OR 97232

**Hearing Officer:** Michelle Gaines

**Stat. Auth.:** ORS 692.320 & 97.931

**Stats. Implemented:** ORS 692.025, 692.045, 692.140, 692.160, 692.190, 432.005, 432.317, 97.010 & 97.130

**Proposed Amendments:** 830-011-0000, 830-011-0010, 830-011-0020, 830-011-0050, 830-011-0070, 830-011-0080, 830-020-0000, 830-020-0010, 830-020-0020, 830-020-0030, 830-020-0040, 830-030-0000, 830-030-0004, 830-030-0030, 830-030-0070, 830-030-0090, 830-030-0100, 830-040-0005, 830-040-0010, 830-040-0020, 830-040-0030, 830-040-0050, 830-040-0060, 830-040-0070, 830-050-0050

**Proposed Repeals:** 830-011-0030, 830-050-0000

**Last Date for Comment:** 6-20-11, 4 p.m.

**Summary:** The proposed rules recognize industry changes in practices, reflects apprenticeship period statutory changes in ORS 692; removes rules sufficiently addressed in statute, reorganizes rules by relevant topics; plain language statutory mandates (spelling, grammar, etc) are also proposed.

**Rules Coordinator:** Michelle Gaines

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

**Telephone:** (971) 673-1502

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## **Oregon Business Development Department Chapter 123**

**Rule Caption:** These rules update the Strategic Reserve Fund, First Source Hiring Agreement section.

**Stat. Auth.:** ORS 285A.075

**Other Auth.:** ORS 285.266

**Stats. Implemented:** ORS 285B.050–285B.098

**Proposed Amendments:** 123-090-0050

**Last Date for Comment:** 6-21-11

**Summary:** First source hiring agreements are necessary when a firm receives an award of more than \$50,000 through the Strategic Reserve Fund. This amendments changes the \$50,000 amount to \$100,000. This amendment will now coincide with the First Source Hiring Agreement rules under 123-070-1150.

**Rules Coordinator:** Mindee Sublette

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

**Telephone:** (503) 986-0036

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## **Oregon Health Authority, Addictions and Mental Health Division: Mental Health Services Chapter 309**

**Rule Caption:** Handling Patient Mail in State Institutions.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-16-11	1 p.m.	500 Summer St. NE Salem, OR 97301

**Hearing Officer:** Rick Luthe

**Stat. Auth.:** ORS 179.321 & 413.042

**Stats. Implemented:** ORS 179.321 & 413.042

**Proposed Adoptions:** 309-102-0100, 309-102-0110, 309-102-0120, 309-102-0130, 309-102-0140, 309-102-0150

**Proposed Repeals:** 309-100-0100(T), 309-100-0110(T), 309-100-0120(T), 309-100-0130(T), 309-100-0140(T), 309-100-0150(T), 309-102-0000, 309-102-0005, 309-102-0010, 309-102-0015, 309-102-0020, 309-102-0025

**Last Date for Comment:** 6-24-11

**Summary:** These rules reflect a comprehensive review of prior permanent rules, which are being repealed. These rules relate to mail being sent from and received by patients residing in each Oregon State Hospital campus and the Blue Mountain Recovery Center. These rules accomplish the following:

- Protect patient rights related to the posting and receipt of mail.
- Specify the circumstance under which staff of state institutions may confiscate a piece of mail arriving for, or being sent by a patient.
- Specify the procedures to be used when a piece of mail is confiscated.
- Protects the safety and security of citizens and the state institution buildings.

**Rules Coordinator:** Richard Luthe

**Address:** Oregon Health Authority, Addictions and Mental Health Division: Mental Health Services, 500 Summer St. NE, E-86, Salem, OR 97301

**Telephone:** (503) 947-1186

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

**Rule Caption:** 7/11 – NCCI edit appeals; Oregon Health Authority (OHA) definition; Pilot project for CAWEM women.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-17-11	10:30 a.m.	Human Service Bldg., Rm. 137C 500 Summer St. NE Salem, OR 97301

**Hearing Officer:** Darlene Nelson

**Stat. Auth.:** ORS 413.042

**Stats. Implemented:** ORS 414.025, 414.065 & 409.010

**Proposed Amendments:** 410-120-0000, 410-120-0030, 410-120-1560

**Last Date for Comment:** 6-19-11

**Summary:** The General Rules program administrative rules govern Division payments for services to clients. The Division needs to amend as follows:

- **OAR 410-120-0000, Definitions:** 2009 Legislative session created the Oregon Health Authority and moved various Divisions from the Department of Human Services. The Division will revise this rule to reflect this change. The Division will also add a definition for the National Correct Coding Initiative (NCCI) edits required by the Affordable Care Act.

- **OAR 410-120-0030, Children's Health Insurance Program:** The Division will amend this rule to add Columbia, Crook, Douglas, Jefferson, Josephine, Morrow, Union and Wasco counties to participate in the prenatal care pilot providing prenatal care during pregnancy and labor and delivery services under CHIP for women who are not eligible for Medicare and who are at or below 185% of FPL, subject to the Centers for Medicare and Medicaid Services (CMS) approval.

- **OAR 410-120-1560, Provider Appeals:** The Affordable Care Act requires Medicaid agencies to use NCCI edits. The Division will amend this rule to specify the inclusion of provider appeals for an NCCI edit.

- All above rules will reflect the Oregon Health Authority name change and updated statutory reference.

- Other text may be revised to improve readability and to take care of necessary "housekeeping" corrections.

# NOTICES OF PROPOSED RULEMAKING

Proposed rules are available on the DMAP Website: <http://www.dhs.state.or.us/policy/healthplan/rules/notices.html>

For hardcopy requests, call: (503) 947-5081

**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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**Rule Caption:** 7/11 – Semi-Annual PDL updates, expansion of 90-day fill list of maintenance medications, changes to allow for the billing of certain diabetic supplies by pharmacies, and updates for vaccination billing, PA criteria update.

Date:	Time:	Location:
6-17-11	10:30 a.m.	Human Service Bldg., Rm. 137C 500 Summer St. NE Salem, OR 97301

**Hearing Officer:** Darlene Nelson

**Stat. Auth.:** ORS 413.042, 414.065 & 2009 OL Ch. 595, Sec. 10–23

**Stats. Implemented:** ORS 414.065

**Proposed Amendments:** 410-121-0030, 410-121-0040, 410-121-0146, 410-121-0147, 410-121-0155, 410-121-0157, 410-121-0160, 410-121-0185, 410-121-0200

**Proposed Repeals:** 410-121-0030(T)

**Last Date for Comment:** 6-19-11

**Summary:** The Pharmaceutical Services Program rules (Division 121) govern the Division of Medical Assistance Programs' (Division) payments for pharmaceutical services and supplies provided to certain clients.

- **410-121-0030:** The Division temporarily amended this rule effective March 1, 2011, to include the semi-annual update to current Preferred Drug List (PDL) classes and allow exceptions for the dispensing of brand name prescriptions instead of the generic form when a brand manufacturer contracts with the State and the branded product's Net Price to the Division becomes less than the generic Net price and it is listed as preferred on the PDL. With this Notice, the Division will permanently amend this rule and repeal the temporary rule.

The Division will also amend:

- **410-121-0040:** PA Criteria class updates related to SNRIs per Drug Utilization Review (DUR) Board recommendations.

- **410-121-0146:** Revisions to the criteria which determine what maintenance drugs are allowed to be dispensed as 90-day refills

- **410-121-0147:** Clarification of coverage for certain drug products, nutritional supplements, vitamins, vaccines, and active pharmaceutical ingredients

- **410-121-0155:** New language relating to program changes to allow pharmacies to be reimbursed for the provision of certain diabetic supplies

- **410-121-0157:** Inclusion of requirements under the Affordable Care Act for drug manufacturers that participate in the CMS Medicaid Drug Rebate Program that require the Division to collect drug rebates for drugs dispensed by Medicaid Managed Care Organizations

- **410-121-0160:** Inclusion of terms and conditions for enrolled pharmacies to participate in an annual claims volume survey for dispensing fee determination

- **410-121-0185:** Changes to billing requirements for pharmacy based immunizations.

- **410-121-0200:** Billing requirements for reimbursement of certain diabetic supplies

- All above rules will reflect the Division's agency authority from the Department of Human Services to the Oregon Health Authority and updated statutory reference.

- Other text may be revised to improve readability and to take care of necessary "housekeeping" corrections.

Proposed rules are available on the DMAP Website: <http://www.dhs.state.or.us/policy/healthplan/rules/notices.html>

For hardcopy requests, call: (503) 947-5081

**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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**Rule Caption:** 7/11 – Expanding access to diabetic supplies by allowing both DMEPOS providers and pharmacies to dispense.

Date:	Time:	Location:
6-17-11	10:30 a.m.	Human Service Bldg., Rm. 137C 500 Summer St. NE Salem, OR 97301

**Hearing Officer:** Darlene Nelson

**Stat. Auth.:** ORS 413.042 & 414.065

**Stats. Implemented:** ORS 414.065

**Proposed Amendments:** 410-122-0520

**Last Date for Comment:** 6-21-11

**Summary:** The Durable Medical Equipment, Prosthetics, Orthotics and Supplies Program administrative rules govern Division payments for services to certain clients. The Division will amend this administrative rule governing diabetic supplies to:

- Accommodate pharmacies as eligible dispensing agents of this supply type;

- Clarify the requirements of prior authorization and supply limitations;

- Add new claims submission criteria that are needed to implement this expansion to client access;

- Reflect the Division's governing agency change from Department of Human Resources to Oregon Health Authority and update statutory reference.

- Improve readability and to take care of other necessary "housekeeping" corrections.

Proposed rules are available on the Division Website: <http://www.dhs.state.or.us/policy/healthplan/rules/notices.html>

For hardcopy requests, call: (503) 947-5081

**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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**Rule Caption:** July 1, 2011 – alignment with current licensing board rules.

Date:	Time:	Location:
6-17-11	10:30 a.m.	Human Service Bldg., Rm. 137C 500 Summer St. NE Salem, OR 97301

**Hearing Officer:** Darlene Nelson

**Stat. Auth.:** ORS 413.042 & 414.065

**Stats. Implemented:** ORS 413.042 & 414.065

**Proposed Amendments:** 410-133-0040, 410-133-0080, 410-133-0120

**Last Date for Comment:** 6-19-11

**Summary:** The General Rules program administrative rules govern Division payments for services to clients. The Division needs to amend as follows:

- To revise and correct references to OARs sited in the rules listed above to align with the State's licensing boards.

- All above rules will reflect the Oregon Health Authority name change and updated statutory reference.

- Other text may be revised to improve readability and to take care of necessary "housekeeping" corrections.

Proposed rules are available on the DMAP Website: <http://www.dhs.state.or.us/policy/healthplan/rules/notices.html>

For hardcopy requests, call: (503) 947-5081

**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

# NOTICES OF PROPOSED RULEMAKING

**Rule Caption:** 7/11 – Implement, administer and audit the Oregon Medicaid Electronic Health Record (EHR) Incentive Program.

**Date:** 6-17-11  
**Time:** 10:30 a.m.  
**Location:** Human Services Bldg., Rm 137C  
500 Summer St. NE  
Salem, OR 97301

**Hearing Officer:** Darlene Nelson

**Stat. Auth.:** ORS 413.042

**Stats. Implemented:** ORS 414.025, 414.065 & 409.010

**Proposed Adoptions:** 410-165-0000, 410-165-0020, 410-165-0040, 410-165-0060, 410-165-0080, 410-165-0100, 410-165-0120, 410-165-0140

**Last Date for Comment:** 6-21-11

**Summary:** The Medicaid Electronic Health Record (EHR) Incentive Program administrative rules govern Division of Medical Assistance Programs payments to certain providers. The Division intends to adopt the rules listed above because Section 4201 of the American Reinvestment and Recovery Act of 2009 established a voluntary program to disburse incentive payments to Medicaid providers who adopt, implement, or upgrade, or become meaningful users of certified electronic health record systems.

These rules outline the Medicaid EHR Incentive Program criteria for participation of eligible professionals and eligible hospitals that adopt, implement, or upgrade, or successfully demonstrate meaningful use of certified electronic health record technology, and are qualified by the program.

All the above rules will reflect the authorizing agency name change from the Department of Human Services to the Oregon Health Authority updated statutory references.

Implementation of these rules is pending approval from the Centers for Medicare and Medicaid Services (CMS).

Proposed rules are available on the DMAP website: <http://www.dhs.state.or.us/policy/healthplan/rules/notices.html>

For hardcopy requests, call: (503) 947-5081

**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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**Rule Caption:** 7/11— Allows the Authority to conduct medical assistance eligibility determinations using OAR chapter 461 medical eligibility rules.

**Date:** 6-17-11  
**Time:** 10:30 a.m.  
**Location:** Human Services Bldg., Rm. 137C  
500 Summer St. NE  
Salem, OR 97301

**Hearing Officer:** Darlene Nelson

**Stat. Auth.:** ORS 413.042

**Stats. Implemented:** 413.042 & 414.065

**Proposed Adoptions:** 410-120-0006

**Last Date for Comment:** 6-21-11, Close of Business

**Summary:** The General Rules program administrative rules govern Division payments for services to clients. The Division will adopt a new rule (OAR 410-120-0006) to allow the Oregon Health Authority to conduct medical assistance-eligibility determinations using the Department of Human Services' OAR chapter 461 medical assistance eligibility rules. This rule also allows the appeal processes for Authority determinations to be conducted pursuant to OAR chapter 461, division 25.

**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

## Oregon Health Authority, Public Health Division Chapter 333

**Rule Caption:** Amendment of Rules that Govern Accreditation of Environmental Testing Laboratories.

**Stat. Auth.:** ORS 438.605–438.620, 448.131, 448.150 & 448.280

**Stats. Implemented:** ORS 438.605–438.620 & 448.280

**Proposed Amendments:** 333-064-0005, 333-064-0010, 333-064-0015, 333-064-0025, 333-064-0030, 333-064-0035, 333-064-0050, 333-064-0060, 333-064-0065

**Last Date for Comment:** 6-22-11, 5 p.m.

**Summary:** The Oregon Health Authority, Public Health Division, Oregon State Public Health Laboratory is proposing to permanent amend Oregon Administrative Rules in chapter 333, division 64 pertaining to accreditation of laboratories. The proposed amendments will: (1) Change the Standard to which ORELAP accredits laboratories from the 2003 National Environmental Laboratory Accreditation Conference (NELAC) Standards to the NELAC Institute (TNI) 2009 Standards; (2) Change from charging assessment fees based on program to matrices, which matches how laboratories are actually accredited to national standards; (3) Add language concerning the accreditation of mobile laboratories as required by the National Environmental Laboratory Accreditation Program (NELAP); (4) Add new technologies to ORELAP's fields of accreditation; (5) Increase fees to out-of-state laboratories requesting accreditation by Oregon in order to help cover the costs of the program; (6) Make revisions to procedures to reflect revisions to current practices; (7) Add clarifying language to help avoid misinterpretation.

**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 Chapter 331

**Rule Caption:** Define terms used in ORS 676.612 and active military status protocols for authorization holders.

**Stat. Auth.:** ORS 676.615

**Other Auth.:** ORS 408.450

**Stats. Implemented:** ORS 676.607, 676.608 & 408.450

**Proposed Adoptions:** 331-010-0050

**Proposed Amendments:** 331-020-0040, 331-020-0070

**Last Date for Comment:** 6-28-11

**Summary:** Proposed adoption of 331-010-0050 allows authorization holders in active military status waiver of renewal, fees and continuing education requirements, as well as protocols for restoration of former authorization status.

Proposed amendment clarifies what constitutes an appearance before the agency during investigations of alleged violations of statutes or rules under the authority of the agency, its boards or councils.

Proposed amendment defines terms incompetence and negligence used in ORS 676.612 in relation to the boards or council under the Oregon Health Licensing Agency.

**Rules Coordinator:** Samantha Patnode

**Address:** Oregon Health Licensing Agency, 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:** Criminal background checks for employees and applicants for employment and volunteers.

**Stat. Auth.:** ORS 181.534, 676.303, 677.280

**Stats. Implemented:** ORS 181.534

## NOTICES OF PROPOSED RULEMAKING

**Proposed Adoptions:** 847-002-0000, 847-002-0005, 847-002-0010, 847-002-0015, 847-002-0020, 847-002-0025, 847-002-0030, 847-002-0035, 847-002-0040, 847-002-0045

**Last Date for Comment:** 6-22-11

**Summary:** The proposed rules address the purpose, intent and scope of criminal background checks for employees, applicants and volunteers of the Oregon Medical Board.

**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:** Amend language for reactivation of license for military/public health, rennumbers Mandatory Pain Management Education.

**Stat. Auth.:** ORS 677.265

**Stats. Implemented:** ORS 677.265 & 677.172

**Proposed Amendments:** 847-008-0018, 847-008-0050, 847-008-0055, 847-008-0075

**Last Date for Comment:** 6-22-11

**Summary:** The proposed amendments allow a licensee who is assigned or employed by the military service for 12 months or less to maintain an active status without changing to Military/Public Health status, simplifies the process for changing to Military/Public Health status, and clarifies the reactivation requirement. Clarifies the process to reinstate or reactivate a license after the registration period has lapsed due to non-renewal. Also clarifies that pain management education hours may be used to fulfill the regularly required CME hours for biennial licensure renewal.

**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:** Requirement of establishing a physician-patient relationship.

**Stat. Auth.:** ORS 677.265

**Stats. Implemented:** ORS 677.135, 677.137, 677.139 & 677.141

**Proposed Amendments:** 847-025-0000

**Last Date for Comment:** 6-22-11

**Summary:** The amendment clarifies the requirement of establishing a physician-patient relationship to having in-person contact.

**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:** Change definition to Oregon Health Authority, removes unnecessary language.

**Stat. Auth.:** ORS 183.205 & 677.245

**Stats. Implemented:** ORS 183.205 & 682.015

**Proposed Amendments:** 847-035-0001, 847-035-0025

**Last Date for Comment:** 6-22-11

**Summary:** The proposed rules amendment changes the definition of the Emergency Medical Services and trauma Systems of the Public Health of the Department of Human Services to the Emergency Medical Services and trauma Systems Oregon Health Authority. The proposed rule removes unnecessary language and defines the provider levels as prescribed by OAR 333, division 265.

**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:** Updates name of state acupuncture association and includes minor word changes.

**Stat. Auth.:** ORS 677.265

**Stats. Implemented:** ORS 677.265, 677.759 & 677.780

**Proposed Amendments:** 847-070-0050

**Last Date for Comment:** 6-22-11

**Summary:** The proposed rules updates the name of the state Acupuncture Association to "Oregon Association of Acupuncture and Oriental Medicine," and makes minor grammatical changes including changing the word "shall" to "must" within the rule.

**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:** Repealed rules, covered in Division 008, which applies to all Board licensees.

**Stat. Auth.:** ORS 677.265

**Stats. Implemented:** ORS 677.184, 677.495, 677.500, 677.510, 677.515, 677.520, 677.535, 677.540 & 677.545

**Proposed Repeals:** 847-050-0031, 847-050-0032

**Last Date for Comment:** 6-22-11

**Summary:** The rules are no longer necessary because the requirement is covered in Division 008, which applies to all Board licensees.

**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:** Repealed rules, covered in Division 008, which applies to all Board licensees.

**Stat. Auth.:** ORS 677.265

**Stats. Implemented:** ORS 677.759 & 677.172

**Proposed Repeals:** 847-070-0018, 847-070-0042

**Last Date for Comment:** 6-22-11

**Summary:** The rules are no longer necessary because the requirement is covered in Division 008, which applies to all Board licensees.

**Rules Coordinator:** Malar Ratnathicam

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

**Telephone:** (971) 673-2713

\*\*\*\*\*

**Rule Caption:** Repealed rules, covered in Division 008, which applies to all Board licensees.

**Stat. Auth.:** ORS 677.265

**Stats. Implemented:** ORS 677.172, 676.100 & 677.810

**Proposed Repeals:** 847-080-0019, 847-080-0020, 847-080-0025

**Last Date for Comment:** 6-22-11

**Summary:** The rules are no longer necessary because the requirement is covered in Division 008, which applies to all Board licensees.

**Rules Coordinator:** Malar Ratnathicam

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

**Telephone:** (971) 673-2713

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### Oregon Patient Safety Commission Chapter 325

**Rule Caption:** Establishes the Patient Safety Commission's 2011-2013 biennial budget by amending OAR 325-005-0015

Date:	Time:	Location:
6-27-11	10 a.m.	1020 SW Taylor, Suite 700 Portland, OR 97205

**Hearing Officer:** Shannon O'Fallon

**Stat. Auth.:** ORS 442.820-442.835

**Other Auth.:** 2003 OL Ch. 686, Sec. 9

**Stats. Implemented:** ORS 182.462(1) 182.462(2)

**Proposed Amendments:** 325-005-0015

**Last Date for Comment:** 6-27-11, 5 p.m.

**Summary:** In accordance with the rules governing semi-independent state agencies, this action establishes the Patient Safety Commission's 2011-2013 biennial budget of \$1,426,006 by amending OAR 325-005-0015.



# NOTICES OF PROPOSED RULEMAKING

**Rules Coordinator:** Bethany Higgins  
**Address:** Oregon Patient Safety Commission, PO Box 285, Portland, OR 97207-0285  
**Telephone:** (503) 224-9226

.....  
**Oregon Public Employees Retirement System**  
**Chapter 459**

**Rule Caption:** Repeal redundant Social Security Administration rule.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-28-11	2 p.m.	PERS Boardroom 11410 SW 68th Parkway Tigard, OR

**Hearing Officer:** Daniel Rivas

**Stat. Auth.:** ORS 237.470

**Stats. Implemented:** ORS 237.410, 237.480 & 237.500

**Proposed Repeals:** 459-020-0040

**Last Date for Comment:** 7-1-11

**Summary:** This rule was determined to be unnecessary because the content is already sufficiently covered in state and federal law.

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](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

.....  
**Public Utility Commission,**  
**Board of Maritime Pilots**  
**Chapter 856**

**Rule Caption:** Adds reporting obligations, amends disciplinary rules, renumbers remedial actions rule.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-22-11	10 a.m.	800 NE Oregon St., Rm. 1-A Portland, OR

**Hearing Officer:** Board

**Stat. Auth.:** ORS 776 & 670

**Stats. Implemented:** ORS 776.115, 670.280 & 670.310

**Proposed Adoptions:** 856-010-0021

**Proposed Amendments:** 856-010-0013, 856-010-0035, 856-010-0045

**Proposed Ren. & Amends:** 856-010-0048 to 856-010-0041

**Last Date for Comment:** 6-22-11

**Summary:** The new disciplinary rules require pilots to report information on non-maritime incidents that may be material to whether the Board should continue to license them. The amendments tie the new rules to the existing disciplinary action rules. Preventive, Corrective or Remedial rule language is being renumbered to position it in closer proximity to the rest of the disciplinary rules.

**Rules Coordinator:** Susan Johnson

**Address:** Public Utility Commission, Board of Maritime Pilots, 800 NE Oregon St., Suite 507, Portland, OR 97232

**Telephone:** (971) 673-1530

.....  
**Rule Caption:** Amends training requirements and licensing restrictions for the Coos/Yaquina Bay bar pilotage grounds.

**Stat. Auth.:** ORS 776 & 670

**Stats. Implemented:** ORS 766.115 & 670.310

**Proposed Amendments:** 856-010-0010, 856-010-0011

**Last Date for Comment:** 6-22-11

**Summary:** Lengthens training requirements for the Yaquina Bay bar pilotage ground and expands restrictions on licenses for both Coos and Yaquina Bay bar pilotage grounds.

**Rules Coordinator:** Susan Johnson

**Address:** Public Utility Commission, Board of Maritime Pilots, 800 NE Oregon St., Suite 507, Portland, OR 97232  
**Telephone:** (971) 673-1530

.....  
**Rule Caption:** Amends vessel length restriction for Grade "C" license holders on the Columbia-Willamette River pilotage ground.

**Stat. Auth.:** ORS 776 & 670

**Stats. Implemented:** ORS 776.115 & 670.310

**Proposed Amendments:** 856-010-0010, 856-010-0012

**Last Date for Comment:** 6-22-11

**Summary:** The number of vessels that meet the current length restrictions for limited license holders has been continually declining. The proposed amendment to increase the length restriction from under 570 feet to under 600 feet will allow "C" license holders better opportunity to accumulate the required number of transits within the time allotted to qualify for a license upgrade.

**Rules Coordinator:** Susan Johnson

**Address:** Public Utility Commission, Board of Maritime Pilots, 800 NE Oregon St., Suite 507, Portland, OR 97232

**Telephone:** (971) 673-1530

.....  
**Rule Caption:** Establishes a process to file complaints with the Board; housekeeping.

**Stat. Auth.:** ORS 776 & 670

**Stats. Implemented:** ORS 776.115 & 670.310

**Proposed Adoptions:** 856-010-0031

**Proposed Amendments:** 856-010-0015, 856-010-0022

**Last Date for Comment:** 6-22-11

**Summary:** A new rule that establishes a process to file complaints with the Board and a process for their disposition. Housekeeping is for two rules to make their language consistent with other provisions.

**Rules Coordinator:** Susan Johnson

**Address:** Public Utility Commission, Board of Maritime Pilots, 800 NE Oregon St., Suite 507, Portland, OR 97232

**Telephone:** (971) 673-1530

.....  
**Rule Caption:** Establishes rules for the Transportation Oversight Committee created by Board Order No. 10-02.

**Stat. Auth.:** ORS 776 & 670

**Stats. Implemented:** ORS 776.15 & 670.310

**Proposed Adoptions:** 856-030-0040

**Last Date for Comment:** 6-22-11

**Summary:** Establishes rules for the Transportation Oversight Committee (TOC), who will make recommendations to the Board for annual adjustments to the transportation system cost component of the tariff funding the pilotage system for the Columbia River Bar pilotage ground.

**Rules Coordinator:** Susan Johnson

**Address:** Public Utility Commission, Board of Maritime Pilots, 800 NE Oregon St., Suite 507, Portland, OR 97232

**Telephone:** (971) 673-1530

.....  
**Teacher Standards and Practices Commission**

**Chapter 584**

**Rule Caption:** Adopts Scope of Administrator licensure and amends Social Worker license requirements. Clarifies definitions and fees and corrects housekeeping issues.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
6-22-11	1-3 p.m.	TSPC Office 465 Commercial St. NE Salem, OR 97301

**Hearing Officer:** Lynn Beaton

**Stat. Auth.:** ORS 342

**Stats. Implemented:** ORS 342.120-342.430, 342.455-342.495 & 342.553

**Proposed Adoptions:** 584-080-0008

**Proposed Amendments:** 584-005-0005, 584-036-0055, 584-060-0062, 584-070-0411, 584-070-0421, 584-070-0431, 584-080-0012

## NOTICES OF PROPOSED RULEMAKING

**Last Date for Comment:** 7-21-11, 2 p.m.

**Summary:** ADOPT: 584-080-0008 – *Scope of Administrator Licenses* – Adopts new rule regarding the scope of Administrator Licenses.

AMEND: 584-005-0005 – *Definitions* – Clarifies the definition and scope of administrator licenses.

584-036-0055 – *Fees* – Reduces proposed fee for potential License of Conditional Assignment (LCA) to \$25. Adds Initial Social Worker License fee [\$100].

584-060-0062 – *Adding Endorsements to Initial or Continuing Teaching Licenses* – Corrects paragraph numbering inconsistency found in rule.

584-070-0411 – *Initial School Social Worker License* – Accredited master’s degree required but eliminates the requirement to also hold an accredited bachelor’s degree. Clarifies that School Social Workers may not refer to themselves as a School Counselor or School Psychologist.

584-070-0421 – *Continuing School Social Worker License* – Accredited master’s degree required but eliminates the requirement to also hold an accredited bachelor’s degree. Eliminates the need to hold an active license with the Oregon Board of Licensed Social Workers.

584-080-0012 – *Initial Administrator License (IAL)* – Clarifies requirements for renewal of IAL’s issued prior to or after August 1, 2011.

584-070-0431 – *Transitional School Social Worker License for First Time Out-of-State Applicants* – Clarifies that applicants who complete an Oregon program may not obtain this license. Requirements include applicant must have out-of-state license if completed an out-of-state school social worker program.

**Rules Coordinator:** Lynn Beaton

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

**Telephone:** (503) 373-0981

**Rule Caption:** Adopts License for Conditional Assignment (LCA) rule.

**Date:**  
7-21-11

**Time:**  
11 a.m.

**Location:**  
University of Portland  
5000 N. Willamette Blvd.,  
Portland, OR

**Hearing Officer:** Lynn Beaton

**Stat. Auth.:** ORS 342

**Stats. Implemented:** ORS 342.120–342.430, 342.455–342.495 & 342.553

**Proposed Adoptions:** 584-060-0250

**Last Date for Comment:** 7-21-11, 2 p.m.

**Summary:** ADOPT: 584-060-0250 – *License for Conditional Assignment (LCA)* A new license to replace the more informal Conditional Assignment Permit (CAP). Allows school districts to misassign educators until educators complete requirements for adding endorsements. Intent is to continue to allow school districts to electronically request this immediate misassignment.

**Rules Coordinator:** Lynn Beaton

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

**Telephone:** (503) 373-0981

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### **Veterinary Medical Examining Board Chapter 875**

**Rule Caption:** Correct Language to clarify the rule.

**Stat. Auth.:** ORS 686.210

**Stats. Implemented:** ORS 686.040 & 676.370

**Proposed Amendments:** 875-015-0030

**Last Date for Comment:** 6-30-11

**Summary:** Language correction from “or” to “of” clarifying the meaning of the rule.

**Rules Coordinator:** Lori V. Makinen

**Address:** Veterinary Medical Examining Board, 800 NE Oregon St., Suite 407, Portland, OR 97232

**Telephone:** (971) 673-0224

# ADMINISTRATIVE RULES

## Appraiser Certification and Licensure Board Chapter 161

**Rule Caption:** Adopting temporary budget to allow for operation of agency pending hearing and permanent adoption.

**Adm. Order No.:** ACLB 1-2011(Temp)

**Filed with Sec. of State:** 5-2-2011

**Certified to be Effective:** 7-1-11 thru 11-30-11

**Notice Publication Date:**

**Rules Amended:** 161-006-0025

**Subject:** Amends Oregon Administrative Rules 161, division 006, rule 0025, regarding the Board's budget for the 2011–2013 biennium.

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

### 161-006-0025

#### Budget

The Board hereby adopts by reference the Board's 2011-2013 Biennium Budget of \$1,465,421 covering the period from July 1, 2011 through June 30, 2013. The Board will amend budgeted accounts as necessary within the approved budget of \$1,465,421 for the effective operation of the Board. The Board will not exceed the approved 2011–2013 Biennium Budget without amending this rule, notifying holders of licenses, and holding a public hearing thereon as required by ORS Chapter 182.462(1)(2). Copies of the budget are available from the Board's office.

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

Stats. Implemented: ORS 674

Hist.: ACLB 4-2001(Temp), f. & cert. ef. 9-12-01 thru 3-1-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 1-2003(Temp), f. & cert. ef. 1-14-03 thru 7-11-03; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 4-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03; ACLB 5-2003, f. & cert. ef. 11-10-03; ACLB 2-2005(Temp), f. 6-16-05, cert. ef. 7-1-05 thru 12-28-05; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 2-2007(Temp), f. 6-6-07, cert. ef. 7-1-07 thru 11-30-07; BOC 1-2007, f. 10-31-07, cert. ef. 11-1-07; ACLB 3-2009(Temp), f. 5-15-09, cert. ef. 7-1-09 thru 11-30-09; ACLB 4-2009, f. & cert. ef. 10-27-09; ACLB 1-2011(Temp), f. 5-2-11, cert. ef. 7-1-11 thru 11-30-11

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## Board of Examiners for Engineering and Land Surveying Chapter 820

**Rule Caption:** Clarify CPD requirements and adopt the Board's 2011–2013 biennial budget.

**Adm. Order No.:** BEELS 2-2011

**Filed with Sec. of State:** 5-12-2011

**Certified to be Effective:** 5-12-11

**Notice Publication Date:** 4-1-2011

**Rules Amended:** 820-010-0325, 820-010-0635

**Subject:** OAR 820-010-0325 – Budget: To adopt the budget approved by the Board for the 2011–2013 biennium.

OAR 820-010-0635 – Continuing Professional Development: Clarifies the continuing professional development (CPD) requirements as a condition of renewing a registration.

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

### 820-010-0325

#### Budget

The amount of \$3,027,685 is established for the biennium beginning July 1, 2011, as the intended limit for payment of expenses from fees, moneys or other revenue, including miscellaneous receipts, collected or received by the Board.

Stat. Auth.: ORS 182.462, 670.310, 672.155 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 1-1999, f. 5-27-99, cert. ef. 7-1-99; BEELS 1-2001, f. & cert. ef. 5-22-01; BEELS 2-2002, f. & cert. ef. 5-15-02; BEELS 4-2003, f. 5-14-03, cert. ef. 7-1-03; BEELS 2-2004, f. & cert. ef. 7-14-04; BEELS 2-2005(Temp), f. & cert. ef. 6-9-05 thru 12-5-05; BEELS 4-2005, f. & cert. ef. 9-23-05; BEELS 1-2007(Temp), f. & cert. ef. 3-23-07 thru 6-30-07; Administrative correction, 7-15-07; BEELS 1-2008, f. & cert. ef. 3-12-08; BEELS 1-2009, f. & cert. ef. 5-15-09; BEELS 2-2011, f. & cert. ef. 5-12-11

### 820-010-0635

#### Continuing Professional Development

The purpose of professional development requirements is to demonstrate a continuing level of competency of professional engineers, land surveyors, and photogrammetrists.

(1) Requirements:

(a) Every registrant is required to obtain 30 professional development hour (PDH) units during the registrant's current biennial renewal period in order to renew for the next biennial renewal period.

(b) Every registrant will report their PDH units on the Continuing Professional Development (CPD) Organizational form and submit to the Board office with the renewal form and fee. The CPD Organizational form must be completed in its entirety.

(c) Supporting documentation to verify the PDH units recorded on the CPD Organizational form must be submitted to the Board office when requested to participate in an audit. Supporting documentation may include, but are not limited to:

(A) Completion certificate(s);

(B) Paid receipt(s);

(C) Attendance log;

(D) Other documents supporting evidence of attendance.

(d) The CPD Organizational form and supporting documentation must be submitted to the Board in English or translated to English.

(e) Records must be retained for five (5) years.

(2) PDH units must be obtained in qualifying activities related to the individual's registration. A qualifying activity is any course or activity with a clear purpose and objective which improves, or expands the skills and knowledge relevant to the registrant's field of practice or practices.

(3) Non-qualifying activities may include, but are not limited to:

(a) Regular employment;

(b) Real estate licensing courses;

(c) Personal, estate, or financial planning;

(d) Personal self improvement;

(e) Service club meetings or activities;

(f) Equipment demonstrations or trade show displays;

(g) Topics not relevant to engineering, land surveying, or photogrammetry professions;

(h) Enrollment without attendance at courses, seminars, etc.

(i) Repetitive attendance at the same course;

(j) Repetitive teaching of the same course;

(k) Attending committee meetings or general business meetings of any organization;

(l) Taking professional or required examinations.

(4) Units — The conversion of other units of credit to PDH units is as follows:

(a) 1 College Semester hour equals 45 PDH;

(b) 1 College Quarter hour equals 30 PDH;

(c) 1 Continuing Education unit equals 10 PDH.

(5) Sources of PDH units — One (1) PDH unit may be obtained for each contact hour of instruction or presentation. Unless otherwise noted, there is no maximum amount of PDH units a registrant may earn per biennial renewal period. Sources of PDH units include, but are not limited to the following:

(a) Successful completion of college courses;

(b) Successful completion of short courses, tutorials, correspondence, web based courses, televised and videotaped courses;

(c) Active participation in seminars, in-house courses, workshops, and professional conventions;

(d) Teaching or instructing a course, seminar, or workshop one time only. (This does not apply to full-time faculty teaching college courses);

(e) Authoring or co-authoring published papers, articles or books. Maximum of 10 PDH units per biennial renewal period;

(f) Active participation in professional or technical society, committee, or board. Maximum of 8 PDH units per biennial renewal period;

(g) Self study. Maximum of 6 PDH units per biennial renewal period;

(h) Mentoring of engineering, land surveying, or photogrammetry topics to a nonregistered individual not under your supervision. Each 10 hours spent mentoring equals 1 PDH unit. Maximum of 4 PDH units per biennial renewal period;

(i) Non-technical educational activities related to the registrant's employment;

(j) Developing, writing, or scoring an engineering, land surveying, or photogrammetric mapping examination for licensure or certification. Maximum of 15 PDH units per biennial renewal period.

(6) Determination of Credit — The Board has final authority with respect to approval of courses, credit, PDH units for courses and other methods of earning credit.

(a) The Board will approve without listing courses which are sponsored by nationally recognized technical societies and those technical societies listed in 820-001-0000(4)(b)(A) through (E) and (4)(c)(A) through (H).

(b) The Board will approve PDH units obtained by a registrant from the list provided by NCEES Registered Continuing Education Providers Program.

# ADMINISTRATIVE RULES

(c) Credit determination for activities is the responsibility of the registrant and is subject to review by the Board.

(7) If a registrant exceeds the requirement in any renewal period, a maximum of 15 PDH units in courses/activities may be carried forward into the next renewal period.

(8) Delinquent, retired or inactive registrants must complete PDH requirements as outlined in OAR 820-010-0520 in order to attain active status.

(9) In the event a registrant holds a license in another state that has a lesser PDH requirement than Oregon or no PDH requirement, the registrant will need to satisfy Oregon's 30 PDH requirement to renew the Oregon license.

(10) Multiple Registrants. The number of PDH units required shall remain a total of 30 PDH per renewal period for persons who hold registration as an engineer, land surveyor, and/or photogrammetrist.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.375

Hist.: BEELS 2-2000, f. & cert. ef. 2-17-00; BEELS 5-2000, f. & cert. ef. 10-19-00; BEELS 3-2002, f. & cert. ef. 11-13-02; BEELS 1-2003, f. & cert. ef. 1-28-03; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 2-2007, f. & cert. ef. 4-5-07; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 1-2009, f. & cert. ef. 5-15-09; BEELS 1-2010, f. & cert. ef. 5-12-10; BEELS 2-2011, f. & cert. ef. 5-12-11

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## Board of Licensed Professional Counselors and Therapists Chapter 833

**Rule Caption:** Changes to criminal background check procedures.  
**Adm. Order No.:** BLPCT 2-2011(Temp)

**Filed with Sec. of State:** 5-13-2011

**Certified to be Effective:** 5-15-11 thru 11-10-11

**Notice Publication Date:**

**Rules Amended:** 833-120-0011, 833-120-0021, 833-120-0031, 833-120-0041

**Subject:** Allows license applicants with fingerprint based criminal history checks provided by another public agency within one year prior to submitting a license application to submit a verification form instead of a new fingerprint history check.

Add registered interns to requirements section.

Adds that misleading statements or intended omissions as part of a criminal background check may result in discipline.

Adds that criminal history checks will be conducted on each licensee or intern every 5 years.

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

### 833-120-0011

#### Purpose and Scope

(1) The purpose of these rules, OAR 833-120-0011 to 833-120-0041, is to provide for the screening under ORS 181.534 of licensees, registered interns, and applicants for licensure with the Oregon Board of Licensed Professional Counselors and Therapists to determine if they have a history of criminal behavior such that they would be unable to, or should not be allowed to, perform the services of a Licensed Professional Counselor or Licensed Marriage and Family Therapist.

(2) The following persons must take the steps necessary to complete a nationwide criminal history check under ORS 181.534:

(a) A person who, on or after January 1, 2010, submits an application for licensure to the Board in accordance with OAR 833 Division 20;

(b) A licensee or registered intern who, on or after January 1, 2010, submits an application for renewal of their license or status, and who has not completed a criminal history check within the past five years; and

(c) A licensee or registered intern who is the subject of inquiry or investigation by the board.

(3) A criminal history check of each licensee and registered intern will be conducted at least once every five years as part of the license or internship renewal process.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 2-2011(Temp), f. 5-13-11, cert. ef. 5-15-11 thru 11-10-11

### 833-120-0021

#### Requirements

(1) To complete a criminal history check, the Board will require each person to:

(a) Provide fingerprints on a standard Federal Bureau of Investigations (FBI) fingerprint card (additional fingerprints may be required if the initial fingerprint card is rejected by State Police or the FBI);

(A) Fingerprints must have been taken not more than 60 days prior to submission to the Board.

(B) Licensees and registered interns must submit fingerprints by their renewal date.

(b) Provide personal information necessary to obtain the criminal history check; and

(c) Pay the actual cost to the board of conducting the criminal history check as part of a licensing or application fee, including fees imposed by the Oregon State Police (OSP) or the FBI, and for certified court records or documents as needed.

(2) The Board may also request, and the applicant, licensee, or registered intern will provide, the following information:

(a) Responses to a criminal history questionnaire; and

(b) Written response to questions by the Board regarding the person's criminal history.

(3) Exceptions. In lieu of completing a new criminal history check, a licensee, registered intern, or applicant may submit verification of a fingerprint-based, national criminal history check conducted within one year of the person's application or renewal date by a Board approved agency.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 2-2011(Temp), f. 5-13-11, cert. ef. 5-15-11 thru 11-10-11

### 833-120-0031

#### Information Considered

(1) In reviewing the information obtained from a criminal history check, the Board will consider the following circumstances related to any criminal conviction, indictment, or pending indictment, arrest, and related information:

(a) The nature of the crime of which the person has been convicted, indicted, or arrested;

(b) The facts that support the conviction, indictment, or arrest;

(c) The relevancy to the specific requirements of the person's position as a licensee or applicant;

(d) The passage of time since the commission of the crime;

(e) The age of the person at the time of the crime;

(f) The likelihood of a repetition of an offense or of the commission of another crime;

(g) Whether the person accepts responsibility for past actions;

(h) The commission of other relevant crimes;

(i) Whether the conviction was set aside and the legal effect of setting aside the conviction;

(j) A recommendation from an employer who employed the person after the conviction;

(k) Charges, arrests, and other behavior involving contact with law enforcement;

(l) Periods of incarceration;

(m) Compliance with parole, post-prison supervision, or probation;

(n) Drug or alcohol issues related to criminal activity including history of use, manufacturing, delivery, treatment, rehabilitation, and relapse;

(o) Other treatment or rehabilitation related to criminal activity includes assessments, evaluations, and risk assessments conducted before, after, or during treatment or rehabilitation;

(p) Protective services investigations or abuse and neglect reports;

(q) Local or national healthcare practitioner databases; and

(r) Previous complaints and investigations on file with the Board or any other licensing or professional oversight authority.

(2) False or misleading statements, or omissions made for the purpose of misleading the Board are grounds for denial of an application for licensure, refusal to renew a license or registered internship, or disciplinary action authorized under ORS 675.785.

(3) A refusal to submit or consent to a criminal records check including fingerprint identification will result in disciplinary action as mandated by ORS 181.534. In the case of such a refusal by an applicant, the Board will consider the application incomplete and the application will be denied.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 2-2011(Temp), f. 5-13-11, cert. ef. 5-15-11 thru 11-10-11

# ADMINISTRATIVE RULES

## 833-120-0041

### Record Keeping and Confidentiality

(1) Information obtained by the board in carrying out its responsibilities under this rule is considered part of an investigation and is confidential under ORS 676.175.

(2) Information obtained directly from the Law Enforcement Data System will be managed by the Board in accordance with applicable OSP requirements.

(3) Fingerprint cards, if returned to the Board by OSP or the FBI will be destroyed. No copies, facsimiles, or other materials from which the fingerprints could be reproduced will be maintained by the Board.

(4) Criminal history information will not be disseminated by the Board, with the following exceptions:

(a) The subject of a fingerprint-based criminal history check may be provided a copy of the results, if requested in writing prior to the completion of the criminal history check process; and

(b) Criminal history information may be used as exhibits during a contested case hearing process.

(c) The Board may disclose criminal history information that reasonably relates to the regulatory or enforcement function of another public entity as authorized under ORS 676.177.

(5) Challenges to the accuracy or completeness of criminal background information must be made to the reporting agency and not to the Board.

(6) A person against whom disciplinary action is taken by the board on the basis of information obtained as the result of a criminal records check conducted pursuant to this rule is entitled to notice and hearing in accordance with the provisions for contested cases in ORS Chapter 183.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 2-2011(Temp), f. 5-13-11, cert. ef. 5-15-11 thru 11-10-11

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**Board of Massage Therapists**  
**Chapter 334**

**Rule Caption:** Amend 09–11 budget, increase some fees, add Board chair stipend.

**Adm. Order No.:** BMT 1-2011

**Filed with Sec. of State:** 4-21-2011

**Certified to be Effective:** 4-21-11

**Notice Publication Date:** 12-1-2010

**Rules Amended:** 334-001-0012, 334-001-0055, 334-010-0033

**Subject:** The Oregon Board of Massage Therapists (Board) is permanently amending the 2009–2011 biennium budget in an effort to prevent revenue shortfall in the current biennia.

The Board is permanently amending the stipend rule to address the extraordinary amount of additional work conducted specifically by the Board Chair.

The Board is permanently amending the fee schedule in an effort to prevent revenue shortfall in the current and future biennia. The fee changes are as follows:

Active License Renewal (for two years): Current Fee: \$100 – New Fee: \$150.

License Reprint (each): Current Fee: \$5 – New Fee: \$10.

License Verification (each): Current Fee: \$5 – New Fee: \$10.

**Rules Coordinator:** Diana Nott—(503) 365-8657, ext. 1

## 334-001-0012

### Budget

The Oregon Board of Massage Therapists hereby adopts, and fully incorporates herein, the Oregon Board of Massage Therapists' 2009–2011 Biennium budget of \$1,500,000.

Stat. Auth.: SB 1127, ORS 183 & 687.121

Stats. Implemented: Section 6, (1) & (2)

Hist.: BMT 2-1999(Temp), f. & cert. ef. 9-17-99 thru 3-15-00; BMT 1-2000, f. & cert. ef. 1-12-00; BMT 2-2000, f. & cert. ef. 8-3-00; BMT 1-2001, f. & cert. ef. 5-29-01; BMT 2-2003, f. & cert. ef. 6-17-03; BMT 2-2005(Temp), f. & cert. ef. 6-24-05 thru 6-30-05; BMT 3-2005, f. 6-24-05, cert. ef. 7-1-05; BMT 1-2007, f. & cert. ef. 6-29-07; BMT 2-2007, f. & cert. ef. 7-3-07; BMT 3-2009, f. & cert. ef. 7-2-09; BMT 3-2010, f. 12-22-10, cert. ef. 1-1-11; BMT 1-2011, f. & cert. ef. 4-21-11

## 334-001-0055

### Board Member Stipend

(1) The Oregon Board of Massage Therapists hereby adopts a board member stipend of \$100.00 per month for each month a board member serves in their appointment

(2) The Oregon Board of Massage Therapists hereby adopts an additional board chair stipend of \$375.00 per month for each month that a member serves as board chair.

Stat. Auth.: ORS 182.460 & 687.121

Stats. Implemented: ORS 182.460 & 687.121

Hist.: BMT 1-2010, f. & cert. ef. 4-12-10; BMT 2-2010, f. 7-23-10, cert. ef. 7-26-10; BMT 3-2010, f. 12-22-10, cert. ef. 1-1-11; BMT 1-2011, f. & cert. ef. 4-21-11

## 334-010-0033

### Fees

(1) The fees are:

(a) \$100 per biennial renewal for initial license;

(b) \$150 per biennial renewal for active license;

(c) \$50 per biennial renewal for inactive license;

(d) \$25 per week, up to a maximum of \$250, for any late renewal;

(e) \$50 for exam/endorsement application processing;

(f) \$150 for each practical examination;

(g) \$100 for mailing list;

(h) \$10 for license reprint;

(i) \$10 for license verification; and

(j) Other administrative fees as allowed by law.

(2) Application and licensure fees are not refundable

(3) Examination fees will be refunded only when requested in writing and either:

(a) The applicant is unqualified by Oregon statutes; or

(b) Applicant requests refund postmarked at least 7 days prior to the exam.

Stat. Auth.: ORS 183, 687.121 & 182.456 - 182.472

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086 & 687.121

Hist.: MTB 1-1986, f. & cert. ef. 1-29-86; MTB 1-1989(Temp), f. & cert. ef. 7-27-89; MTB 1-1990, f. & cert. ef. 4-20-90; MTB 1-1992, f. & cert. ef. 7-28-92 (and corrected 8-6-92); BMT 2-1998, f. & cert. ef. 7-22-98; BMT 1-2000, f. & cert. ef. 1-12-00; BMT 2-2002, f. & cert. ef. 5-8-02; BMT 1-2003, f. & cert. ef. 1-24-03; BMT 4-2004, f. 10-22-04, cert. ef. 1-1-05; BMT 1-2006, f. & cert. ef. 1-5-06; BMT 1-2009, f. 2-13-09, cert. ef. 3-1-09; BMT 3-2009, f. & cert. ef. 7-2-09; BMT 3-2010, f. 12-22-10, cert. ef. 1-1-11; BMT 1-2011, f. & cert. ef. 4-21-11

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**Board of Pharmacy**  
**Chapter 855**

**Rule Caption:** Adopt and amend rules regarding administration of drugs, remote dispensing and compounding of drugs.

**Adm. Order No.:** BP 3-2011

**Filed with Sec. of State:** 4-18-2011

**Certified to be Effective:** 4-18-11

**Notice Publication Date:** 2-1-2011

**Rules Adopted:** 855-019-0265, 855-041-0645

**Rules Amended:** 855-041-0600, 855-045-0220, 855-045-0240

**Subject:** The new rule in Division 19 regarding administration of drugs by a pharmacist implements ORS 689.655 (OL 2009 Ch 326) and establishes the conditions when a pharmacist may administer a drug. Permanent rules in Division 41 regarding Remote Dispensing replace temporary rules adopted June 2010 and specify situations and conditions for registration of a facility where remote supervision of the dispensing process is permitted. Compounding rules in Division 45 are revised to accommodate modern technologies where computers can record verification, and there is no need for handwritten initialing.

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

## 855-019-0265

### Administration of Drugs

(1) In accordance with ORS 689.655, a pharmacist may administer a drug or device as specified in this rule.

(2) A pharmacist who administers a drug or device must:

(a) Observe, monitor, report, and otherwise take appropriate action regarding desired effect, side effect, interaction, and contraindication associated with administering the drug or device; and

(b) Ensure a record is kept for three years of such activities. This record shall include but is not limited to:

(A) Patient identifier;

(B) Drug or device and strength;

(C) Route and site of administration;

# ADMINISTRATIVE RULES

- (D) Date and time of administration;
- (E) Pharmacist identifier.

(3) The pharmacist must be acting:

(a) Under the direction of or pursuant to a lawful prescription or order issued by a licensed practitioner acting within the scope of the practitioner's practice or;

(b) In accordance with a written protocol or collaborative drug therapy agreement with a licensed practitioner.

(4) The pharmacist must be able to document that they have received training on the drug or device to be administered and the route of administration. Such training may include a program approved by the ACPE, curriculum based programs from an ACPE-accredited college, state or local health department programs, training by an appropriately qualified practitioner, or programs approved by the Board.

(5) The pharmacist may administer a drug or device in conjunction with training the patient or the patient's caregiver how to administer or self-administer the drug or device.

Stat. Auth.: ORS 689.205  
Stats. Implemented: ORS 689.655  
Hist.: BP 3-2011, f. & cert. ef. 4-18-11

## 855-041-0600

### Definitions

(1) "Automated Pharmacy System" (APS) means a mechanical system that performs operations or activities, including but not limited to, those related to the storage, packaging, dispensing, or distribution of medications, but not including compounding or administration, and that collects, controls, and maintains all transaction information.

(2) "Remote Dispensing Facility" (RDF) means a facility where drugs are prepared for administration and where requisite pharmacist supervision is provided remotely as approved by the Board.

(3) "Remote Dispensing Machine" (RDM) means a component of an Automated Pharmacy System that contains prepackaged drugs for dispensing.

(4) "Responsible Pharmacy" means the licensed pharmacy that is responsible for the APS, and RDM.

Stat. Auth.: ORS 689.205  
Stats. Implemented: ORS 689.155  
Hist.: BP 2-2005, f. 2-14-05, cert. ef. 3-1-05; BP 9-2010(Temp), f. & cert. ef. 7-9-10 thru 12-24-10; Administrative correction 1-25-11; BP 3-2011, f. & cert. ef. 4-18-11

## 855-041-0645

### Remote Dispensing Facility (RDF)

(1) A pharmacy physically located in Oregon may make written application to operate an RDF.

(2) At its discretion, the Board may approve an application for registration as an RDF which includes the following:

- (a) An operation plan;
- (b) Policies and Procedures;
- (c) A training plan;

(d) A quality assurance plan for ensuring that there is a planned and systematic process for the monitoring and evaluation of the quality and appropriateness of pharmacy services and for identifying and resolving problems; and

(e) The fee specified in OAR 855-110-0007(14).

(3) Notwithstanding the definition of "supervision by a pharmacist" in OAR 855-006-0005, supervision in an RDF may be accomplished by a pharmacist via an audio-visual technology from the applying pharmacy.

(4) Notwithstanding rules in this division and in Division 19, a Certified Pharmacy Technician who works in an RDF may have access to the facility without the physical presence of a pharmacist, but may only perform Board approved functions when under the supervision of a pharmacist.

Stat. Auth.: ORS 689.205  
Stats. Implemented: ORS 689.155  
Hist.: BP 3-2011, f. & cert. ef. 4-18-11

## 855-045-0220

### Personnel

(1) Personnel who prepare compounded pharmaceuticals, both sterile and non-sterile, shall be provided with appropriate training before they begin to prepare such products including for CSPs, training in the theoretical principles and practical skills of aseptic manipulations.

(2) The pharmacist in charge (PIC) shall establish pharmacy Policies and Procedures that contain protocols in accordance with the guidelines in USP 797, for the initial training and testing of all personnel and for annual retesting in aseptic manipulative skills for those personnel involved in low and medium risk compounding.

(3) Personnel involved in high-risk compounding must be retested in aseptic manipulative skills at least semi-annually.

(4) The PIC shall ensure that training protocols are followed and records are kept for the training of all new personnel and for all continuing education and periodic testing that is completed.

(5) The PIC is responsible for the procedures and the overall operation of all activities within the pharmacy and must:

(a) Ensure all pharmacy personnel involved in preparing compounded products are trained and have demonstrated skills commensurate with the complexity of the procedures they are performing;

(b) Establish a procedure for verification by a pharmacist of the preparation of each completed compounded product. This verification shall be accomplished by a review of each compounded product that includes but is not limited to:

(A) Ensuring that the drug, dose and dosage form ordered are appropriate for the patient;

(B) Verifying that the correct drugs and components were selected;

(C) Confirming that the calculation and quantity of each drug and component is correct;

(D) Verifying the label is correct and where appropriate contains all the information specified in OAR 855-041-0065 and these rules.

(c) Document verification by the pharmacist responsible for the review.

Stat. Auth.: ORS 689.205  
Stats Implemented: ORS 689.155  
Hist.: BP 2-2008, f. & cert. ef. 2-20-08; BP 3-2011, f. & cert. ef. 4-18-11

## 855-045-0240

### Sterile Parenteral Products

(1) In addition to complying with all the other rules in this chapter of rules that are appropriate to their practice setting, pharmacists compounding sterile parenteral products must comply with the following specific rules.

(a) Establish, maintain and enforce written policies and procedures associated with the pharmacy's preparation and dispensing of parenteral products. Policies and procedures shall be available for inspection at the pharmacy. These policies and procedures shall include all requirements of OAR 855-045-0230 as appropriate to the practice setting and:

(A) Requirements for compounding, labeling and storage of the products;

(B) Requirements for administration of parenteral therapy;

(C) Requirements for storage and maintenance of equipment and supplies.

(b) Labeling: In addition to regular labeling requirements, the label shall include:

(A) Rate of infusion, as appropriate;

(B) Beyond Use Date;

(C) Storage requirements or special conditions, if applicable;

(D) Name, quantity and concentration of all ingredients contained in the products, including primary solution;

(E) Initials of the pharmacist who verified the accuracy of the completed product.

(c) Patient Care Services: Counseling shall be available to the patient or patient's agent concerning proper use of parenterals and related supplies furnished by the pharmacy.

(2) In addition to complying with all the requirements in section (1) of this rule, licensed pharmacy personnel preparing parenteral admixtures as defined in OAR 855-045-0210 may:

(a) Prepare multiple source commercially available premixed parenteral admixtures;

(b) Prepare single source premix parenteral admixtures if the individual components of the premixed parenteral solution are commercially available;

(c) Reassign a parenteral admixture to another patient if the admixture does not exceed the documented BUD for that admixture, and the parenteral admixture that was prepared and dispensed for a patient specific order, and has been stored at all times under the control of a person trained and knowledgeable in the storage and administration of drugs;

(d) In the case of a patient specific parenteral admixture, the pharmacist does not need to comply with the worksheet and log requirements in these rules provided that a quality assurance process is in place to address drug recalls, and appropriate safeguards are in place.

Stat. Auth.: ORS 689.205  
Stats Implemented: ORS 689.155  
Hist.: PB 5-1987, f. & ef. 5-1-87; PB 12-1989, f. & cert. ef. 8-11-89; BP 7-2005, f. 12-14-05, cert. ef. 12-15-05; Renumbered from 855-041-0063, BP 2-2008, f. & cert. ef. 2-20-08; BP 3-2011, f. & cert. ef. 4-18-11

# ADMINISTRATIVE RULES

## Construction Contractors Board Chapter 812

**Rule Caption:** Housekeeping, fees for duplicate licenses and record changes, independent contractor status changes, and license/certification cards.

**Adm. Order No.:** CCB 2-2011

**Filed with Sec. of State:** 4-28-2011

**Certified to be Effective:** 5-1-11

**Notice Publication Date:** 4-1-2011

**Rules Adopted:** 812-003-0321, 812-007-0031, 812-007-0032, 812-008-0065, 812-008-0077, 812-025-0032, 812-030-0223, 812-030-0235

**Rules Amended:** 812-001-0200, 812-002-0640, 812-002-0700, 812-003-0310, 812-003-0320, 812-008-0209

**Subject:** • 812-001-0200 is amended to reference a revised form of notice. Key revisions are in the section "A license requires the contractor to maintain a surety bond and liability insurance." The revised notice advises that the surety bond is not intended as a safety net for consumer damages. Consumers with large projects may wish to look into performance bonds.

- 812-002-0640 is amended because language is no longer necessary due to another rule amendment (812-003-0290) February 2011.

- 812-002-0700 is amended to correct the statute reference.

- 812-003-0310 is amended adds a \$10 fee to replace a license and pocket card.

- 812-003-0320 is amended to allow contractors to electronically change independent contractor class without charge and rewrites for clarity. CCB will still charge contractors \$20 to submit a paper change form.

- 812-007-0031, 812-008-0077, 812-025-0032, 812-030-0223 are adopted to establish a \$10 fee to replace a license and pocket card.

- 812-003-0321 is adopted to recognize that the exempt-nonexempt status of a contractor may change from time to time. The rule requires the licensed contractor to notify CCB within 30 days of the change.

- 812-007-0032 is adopted to require LBP licensees to notify the Board of any mailing or e-mail address change. Notification needs to occur within 10 days of the change. There is no charge for making the change to the Board's records.

- 812-008-0209 is amended to comply with ORS 105.838(1) that becomes effective 4/1/11; which requires before a person can sell a home, the home must be equipped with one or more properly functioning carbon monoxide detectors.

- 812-008-0065 is adopted to require certified home inspectors to notify the board of any mailing or e-mail address change. Notification needs to occur within 10 days of the change. There is no charge for making the change to the board's records.

- 812-030-0235 is adopted to require certified locksmiths to notify the board of any mailing or e-mail address change. Notification needs to occur within 10 days of the change. There is no charge for making the change to the board's records.

**Rules Coordinator:** Catherine Dixon—(503) 378-4621, ext. 4077

### 812-001-0200

#### Consumer Notices Adoption

(1) In order to comply with the requirement to adopt an information notice to owner under ORS 87.093, the Construction Contractors Board adopts the form entitled "Information Notice to Owner About Construction Liens," as revised January 1, 2010. This form may be obtained from the agency.

(2) In order to comply with the requirement to adopt a consumer notice form under ORS 701.330(1), the board adopts the form "Consumer Protection Notice" as revised April 26, 2011.

(3) In order to comply with the requirement to adopt an "Information Notice to Property Owners About Construction Responsibilities" form under ORS 701.325(3), the board adopts the form "Information Notice to Property Owners About Construction Responsibilities" as revised September 23, 2008.

(4) In order to comply with the requirement to adopt a notice of procedure form under ORS 701.330(2), the board adopts the form "Notice of Procedure" dated December 4, 2007.

(5) The board adopts the form "Notice of Compliance with Homebuyer Protection Act" (HPA) as revised December 1, 2010.

(6) The board adopts the form "Model Features for Accessible Homes" dated December 4, 2007.

(7) The board adopts the form "Home Inspection Consumer Notice" dated October 27, 2009.

Stat. Auth.: ORS 87.093, 670.310, 701.235, 701.325, 701.330 & 701.530

Stats. Implemented: ORS 87.007, 87.093, 701.235, 701.325, 701.330 & 701.530

Hist.: 1BB 4-1981, f. 11-24-81, ef. 1-1-82; 1BB 3-1982, f. 6-4-82, ef. 1-1-83; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0076; 1BB 3-1983, f. 10-5-83, ef. 10-15-83; BB 2-1987, f. & ef. 7-2-87; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 6-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-17-00; CCB 9-2000, f. & cert. ef. 9-24-00; CCB 7-2002, f. 6-26-02 cert. ef. 7-1-02; CCB 11-2002, f. 12-20-02, cert. ef. 12-23-02; CCB 3-2003(Temp), f. & cert. ef. 3-11-03 thru 9-6-03; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 12-2003(Temp), f. & cert. ef. 12-9-03 thru 6-6-04; CCB 13-2003(Temp), f. 12-19-03, cert. ef. 1-1-04 thru 6-14-04; CCB 2-2004, f. 2-27-04, cert. ef. 3-1-04; CCB 4-2004, f. 5-28-04, cert. ef. 6-1-04; CCB 5-2004(Temp), f. & cert. ef. 6-1-04 thru 11-28-04; CCB 7-2004, f. 8-26-04, cert. ef. 9-1-04; Renumbered from 812-001-0020, CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 1-2006(Temp), f. & cert. ef. 1-11-06 thru 7-10-06; CCB 5-2006, f. & cert. ef. 3-30-06; CCB 5-2007, f. 6-28-07, cert. ef. 7-1-07; CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 1-2008(Temp), f. & cert. ef. 1-2-08 thru 6-29-08; CCB 7-2008, f. 4-28-08, cert. ef. 5-1-08; CCB 16-2008, f. 9-26-08, cert. ef. 10-1-08; CCB 2-2009(Temp), f. & cert. ef. 2-23-09 thru 8-22-09; CCB 3-2009, f. 5-6-09, cert. ef. 6-1-09; CCB 7-2009, f. 11-30-09, cert. ef. 1-1-10; CCB 1-2010, f. & cert. ef. 2-1-10; CCB 16-2010(Temp), f. & cert. ef. 12-1-10 thru 5-27-11; CCB 1-2011, f. 2-28-11, cert. ef. 3-1-11; CCB 2-2011, f. 4-28-11, cert. ef. 5-1-11

### 812-002-0640

#### Renewal

"Renewal" (of license) as used in ORS 701.063, 701.068, and 701.131 includes but is not limited to the act of submitting a replacement bond, a bond rider, or letter of credit or cash deposit, a certificate of insurance, a fee, the renewal form, any employer account numbers, and any prerequisite education.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 670.310, 701.056, 701.063, 701.068, 701.073, 701.088, 701.105,

701.131 & 701.238

Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 6-1998, f. 8-31-98, cert. ef. 9-1-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 2-2011, f. 4-28-11, cert. ef. 5-1-11

### 812-002-0700

#### Structure

"Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, or an improvement attached to real estate or any part thereof as described in ORS 701.005(5).

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 87.058, 279C.460, 646.605 & 701

Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 2-2011, f. 4-28-11, cert. ef. 5-1-11

### 812-003-0310

#### License Cards

(1) The agency shall issue a license and pocket card effective on the date on which the license becomes effective under OAR 812-003-0270 or 812-003-0290.

(2) A license and pocket card is valid for the term for which it is issued only if all of the following conditions are met throughout the license period:

(a) The surety bond, letter of credit or cash deposit remains in effect and undiminished by payment of Construction Contractors Board final orders.

(b) The insurance required by ORS 701.073 remains in effect.

(c) If the licensee is a sole proprietorship, the sole proprietorship survives.

(d) If the licensee is a partnership or limited liability partnership, the composition of the partnership remains unchanged, by death or otherwise.

(e) If the licensee is a corporation, trust, or limited liability company, the corporation, trust or limited liability company survives and complies with all applicable laws governing corporations, trusts or limited liability companies.

(3) If the licensee's bond is cancelled, the license will lapse 30 days from the date the cancellation is received by the agency.

(4) If a license becomes invalid, the agency may require the return of the license and pocket card.

(5) There is no charge for the original license and pocket card issued by the agency.

# ADMINISTRATIVE RULES

(6) There is a \$10 fee to replace a license and pocket card.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.063 & 701.088

Hist.: CCB 9-2004, f. & cert. ef. 12-10-04; CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 2-2011, f. 4-28-11, cert. ef. 5-1-11

## 812-003-0320

### Record Changes

(1) Every licensed entity that changes its name, including any assumed business name under which it may operate, must notify the agency within 30 days of assuming, filing or registering the new name. This section also applies to sole proprietors that change their surname.

(2) Except as provided in OAR 812-003-0190, requests for business name amendments of a partnership, joint venture, corporation, limited liability company or limited liability partnership shall be accompanied by a rider from the surety and a new Certificate of Insurance to reflect the amended name.

(3) With the exception of record changes due to agency error, a record change request shall be submitted in writing or, if the agency permits, electronically.

(4) Except as provided in sections (5) and (6) of this rule, requests for record changes that require a new license card shall be accompanied by a \$20 fee.

(5) No charge will be made for an address change.

(6) No charge will be made for changing independent contractor license class under ORS 701.035 if the licensed entity makes the change electronically.

Stat. Auth.: ORS 670.310, 701.235 & 701.238

Stats. Implemented: ORS 701.056, 701.068, 701.088 & 701.238

Hist.: 1BB 5, f. 6-15-76, ef. 7-1-76; 1BB 7, f. & ef. 11-14-77; 1BB 1-1978, f. & ef. 5-23-78; 1BB 5-1980, f. & ef. 10-7-80; 1BB 6-1980, f. & ef. 11-4-80; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0015; 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 3-1984, f. & ef. 5-11-84; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 10-2000, f. & cert. ef. 8-24-00; CCB 9-2004, f. & cert. ef. 12-10-04, Renumbered from 812-003-0005; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 4-2009, f. 5-6-09, cert. ef. 6-1-09; CCB 2-2011, f. 4-28-11, cert. ef. 5-1-11

## 812-003-0321

### Notification of Change of Independent Contractor Status

(1) When a contractor's license status changes from nonexempt to exempt or from exempt to nonexempt, the contractor must notify the board. The contractor must file a Notification of Changed Contractor License Status within 30 days of the effective date of the change.

(2) There is no charge to file the Notification under this rule.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.035

Hist.: CCB 2-2011, f. 4-28-11, cert. ef. 5-1-11

## 812-007-0031

### License Cards

(1) The agency shall issue a license and pocket card effective on the date on which the license becomes effective under OAR 812-007-0120, 812-007-0130, 812-007-0220, 812-007-0230, 812-007-0320 or 812-007-0330.

(2) A license and pocket card is valid for the term for which it is issued.

(3) If a license becomes invalid, the agency may require the return of the license and pocket card.

(4) There is no charge for the original license and pocket card issued by the agency.

(5) There is a \$10 fee to replace a license and pocket card.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 192.440(4)(a), 701.063, 701.238

Hist.: CCB 2-2011, f. 4-28-11, cert. ef. 5-1-11

## 812-007-0032

### Mailing and E-mail Address Changes

(1) Individuals licensed to engage in LBP activities, contractors licensed to engage in LBP activities and certified LBP renovation contractors shall notify the board of any change in mailing or e-mail addresses while licensed and for one year following the license expiration date. Such persons must notify the board within 10 days after changing an address.

(2) No charge will be made for a mailing or e-mail address change to the board's records.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.117 & 701.515

Hist.: CCB 2-2011, f. 4-28-11, cert. ef. 5-1-11

## 812-008-0065

### Mailing and E-mail Address Changes

(1) Certified home inspectors shall notify the board of any change in mailing or e-mail addresses while certified and for one year following the certification expiration date. Such persons must notify the board within 10 days after changing an address.

(2) No charge will be made for a mailing or e-mail address change to the board's records.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.117 & 701.350

Hist.: CCB 2-2011, f. 4-28-11, cert. ef. 5-1-11

## 812-008-0077

### Certification Cards

(1) The agency shall issue a certification and pocket card effective on the date on which the certification becomes effective under OAR 812-008-0060 or 812-008-0076.

(2) A certification and pocket card is valid for the term for which it is issued.

(3) If a certification becomes invalid, the agency may require the return of the certification and pocket card.

(4) There is no charge for the original certification and pocket card issued by the agency.

(5) There is a \$10 fee to replace a certification and pocket card.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 192.440(4)(a), 701.063, 701.238

Hist.: CCB 2-2011, f. 4-28-11, cert. ef. 5-1-11

## 812-008-0209

### Electrical

(1) The Oregon certified home inspector shall observe:

(a) Service entrance conductors;

(b) Service equipment, grounding equipment, main overcurrent device, and distribution panels;

(c) Amperage and voltage ratings of the service;

(d) Branch circuit conductors, their overcurrent devices, and the compatibility of their amperages and voltages;

(e) The operation of a representative number of installed ceiling fans, lighting fixtures, switches, and receptacles located inside the house, garage, and on the dwelling's exterior walls;

(f) The polarity and grounding of all receptacles within six feet of interior plumbing fixtures, and all receptacles in the garage or carport, and on the exterior of inspected structures;

(g) The operation of ground fault or arc fault circuit interrupters;

(h) Smoke alarms; and

(i) Carbon monoxide detectors.

(2) The Oregon certified home inspector shall describe:

(a) Service amperage and voltage;

(b) Service entry conductor materials; and

(c) Service type as being overhead or underground;

(3) The Oregon certified home inspector shall report:

(a) Any observed 110 volt aluminum branch circuit wiring; and

(b) The presence or absence of smoke alarms, and operate their test function, if accessible, except when detectors are part of a central security system.

(4) The Oregon certified home inspector is not required to:

(a) Insert any tool, probe, or testing device inside the panels;

(b) Test or operate any overcurrent device or safety device in the electrical service panel or elsewhere that may adversely affect the personal property of the resident;

(c) Dismantle any electrical device or control other than to remove the covers of the main or auxiliary distribution panels;

(d) Observe:

(A) Low-voltage systems except to report the presence of solenoid-type lighting systems;

(B) Security system devices or heat detectors;

(C) Telephone, security, TV, intercoms, lightning arrestors or other ancillary wiring that is not a part of the primary electrical distribution system; or

(D) Built-in vacuum equipment.

Stat. Auth.: ORS 670.310, 701.235, 701.350 & 701.355

Stats. Implemented: ORS 105.838(1), 701.350 & 701.355

Hist.: CCB 1-1998, f. & cert. ef. 2-6-98; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 2-2000, f. 2-25-00, cert. ef. 3-1-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 6-2001, f. & cert. ef. 9-27-01; CCB 7-2002, f. 6-26-02 cert. ef. 7-1-02; Renumbered from 812-008-0080, CCB 5-2005, f. 8-24-05, cert. ef. 1-1-06; CCB 2-2011, f. 4-28-11, cert. ef. 5-1-11



# ADMINISTRATIVE RULES

## Department of Agriculture Chapter 603

### 812-025-0032

#### Certification Cards

(1) The agency shall issue a certification and pocket card effective on the date on which the certification becomes effective under OAR 812-025-0025 or 812-025-0030.

(2) A certification and pocket card is valid for the term for which it is issued.

(3) If a certification becomes invalid, the agency may require the return of the certification and pocket card.

(4) There is no charge for the original certification and pocket card issued by the agency.

(5) There is a \$10 fee to replace a certification and pocket card.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 192.440(4)(a), 701.063, 701.119 & 701.238

Hist.: CCB 2-2011, f. 4-28-11, cert. ef. 5-1-11

### 812-030-0223

#### Certificate Cards

(1) The agency shall issue a certificate and pocket card effective on the date on which the certificate becomes effective under OAR 812-030-0210 or 812-030-0220.

(2) A certificate and pocket card is valid for the term for which it is issued.

(3) If a certificate becomes invalid, the agency may require the return of the certificate and pocket card.

(4) There is no charge for the original certificate and pocket card issued by the agency.

(5) There is a \$10 fee to replace a certificate and pocket card.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 192.440(4)(a), 701.063, 701.238 & 701.485

Hist.: CCB 2-2011, f. 4-28-11, cert. ef. 5-1-11

### 812-030-0235

#### Mailing and E-mail Address Changes

(1) Certified locksmiths shall notify the board of any change in mailing or e-mail addresses while certified and for one year following the certification expiration date. Such persons must notify the board within 10 days after changing an address.

(2) No charge will be made for a mailing or e-mail address change to the board's records.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.117 & 701.485

Hist.: CCB 2-2011, f. 4-28-11, cert. ef. 5-1-11

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**Rule Caption:** Residential Continuing Education Course Fee Change.

**Adm. Order No.:** CCB 3-2011(Temp)

**Filed with Sec. of State:** 4-28-2011

**Certified to be Effective:** 4-28-11 thru 10-25-11

**Notice Publication Date:**

**Rules Amended:** 812-021-0016

**Subject:** OAR 812-021-0016 is amended to modify the rule to reduce the cost of agency provided Residential Continuing Education (RCE) from \$33-\$35 to \$15 per hour. This will bring the cost of CCB provided RCE in accordance with the 2011-13 policy option package (PO) 915-102, which was recently voted out of the General Government Subcommittee.

**Rules Coordinator:** Catherine Dixon—(503) 378-4621, ext. 4077

### 812-021-0016

#### Fees for Agency Courses — Continuing Education for Residential Contractors

(1) The agency may charge a fee of \$15 per course hour for the following courses:

(a) Building Exterior Shell (BEST), offered by the agency as provided in OAR 812-021-0015(3)(a)(A).

(b) Construction Laws, Regulations, and Business Practices, offered by the agency as provided in OAR 812-021-0015(3)(a)(C) and 812-021-0015(4)(a)(B).

(2) In addition to the fee for the course, CCB may charge for processing, shipping and handling course materials made available other than online.

Stat. Auth.: ORS 670.310, 701.126 & 701.235

Stats. Implemented: ORS 701.126

Hist.: CCB 14-2010, f. 8-24-10, cert. ef. 9-1-10; CCB 3-2011(Temp), f. & cert. ef. 4-28-11 thru 10-25-11

**Rule Caption:** Changes fee reimbursing the Department for statutorily required commission oversight functions; changes fee apportionment.

**Adm. Order No.:** DOA 9-2011

**Filed with Sec. of State:** 5-10-2011

**Certified to be Effective:** 5-10-11

**Notice Publication Date:** 4-1-2011

**Rules Amended:** 603-042-0020

**Subject:** Revises rule to ensure the Oregon Department of Agriculture is reimbursed for all costs of supervisory and administrative functions that the Department is required by law to perform with regard to commodity commissions. For the first time in 10 years, the fee paid by all 25 commodity commission will be increased to a total of \$250,000 to cover all program costs. The rule revision also modifies the formula for apportioning the fee among the commissions. The revised formula uses an initial charge of 2.3 % of an individual commission's annual assessment income, with adjustments to pick up the difference between the first charge and the total \$250,000 fee. The revised formula sets a maximum fee per commission of \$35,000. A minimum flat fee of \$750 is set for commissions with \$30,000 or less annual assessment income.

**Rules Coordinator:** Sue Gooch—(503) 986-4583

### 603-042-0020

#### Commodity Commission Fees for Commodity Commission Program

(1) Pursuant to ORS 576.320, the Department of Agriculture may collect annual fees from the commodity commissions to reimburse the Department for the supervisory and administrative functions that the Department performs according to ORS Chapters 576, 577, and 578.

(a) The Department shall consult with the Commodity Commission Oversight Program Advisory Committee related to the annual fees.

(2) The total fee assessed to the commissions shall not exceed \$250,000 per fiscal year, beginning with the fee invoiced in fiscal year 2011–2012. The fee shall be used to reimburse the Department for expenses incurred in the previous fiscal year.

(3) The fees for each commission shall be determined using the assessment income as shown on the annual financial reports submitted to the Department.

(4) The total fee for each commodity commission shall be calculated as follows:

(a) First, calculate the base fee for each commission. The base fee for each commission equals 2.3% of the actual assessment income that the commission received in the fiscal year two years prior to the calculation, except that for those commissions with assessment income of \$30,000 or less the base fee shall be a flat fee of \$750, and except that for those commissions with assessment income exceeding \$1,521,738 the base fee shall be a flat fee of \$35,000.

(b) Second, calculate the first shortfall by totaling all the base fees and subtracting the result from the program's annual operating costs which are not to exceed \$250,000.

(c) Third, calculate the assessment factor for each commission. The assessment factor shall be determined by dividing each commission's fiscal year assessment collection by the total assessment income collected from all commodity commissions. The Department shall use the assessment collection shown on each commission's year-end financial statements from the fiscal year two years before the calculation. (For example, when calculating the fee invoiced in fiscal year 2011–12, the Department shall use the assessment shown on the 2009–10 year-end financial statement.)

(d) Fourth, calculate the shortfall portion for each commission. For commissions paying a base fee based on a percentage of its actual assessment income, the shortfall portion equals the first shortfall multiplied by the assessment factor for that commission. For commissions paying a base fee based on a flat fee, the shortfall portion is not calculated.

(e) Fifth, calculate the combined fee for each commission. The combined fee for each commission equals the base fee for that commission plus the shortfall portion for that commission.

(f) Sixth, add all the combined fees for all commissions. If the total does not equal the actual cost of the program, which is not to exceed \$250,000, a second shortfall exists.

# ADMINISTRATIVE RULES

(g) Seventh, if subsequent shortfalls exist, the Department shall assess those shortfalls to each commission that is paying a base fee based on a percentage of its actual assessment income.

(5) The Department shall invoice each commission no later than November 15 each year; and the total fees shall be paid to the Department no later than December 31 of each year.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 561, 576

Hist.: DOA 11-2000, f. & cert. ef. 4-18-00; DOA 14-2007, f. & cert. ef. 8-23-07; DOA 9-2011, f. & cert. ef. 5-10-11

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## Department of Agriculture, Oregon Processed Vegetable Commission Chapter 647

**Rule Caption:** Amend Commission assessment rates.

**Adm. Order No.:** OPVC 1-2011

**Filed with Sec. of State:** 5-3-2011

**Certified to be Effective:** 7-1-11

**Notice Publication Date:** 4-1-2011

**Rules Amended:** 647-010-0010

**Subject:** These rules establish the assessment rates necessary to fund Commission research projects.

**Rules Coordinator:** John McCulley—(503) 370-7019

### 647-010-0010

#### Assessments

(1) Any first purchaser shall deduct and withhold an assessment of the following amounts from each of the above named vegetable crops:

(a) Beans — 1.018 per ton based on the net weight of the beans delivered.

(b) Sweet Corn — \$.455 per ton based on the gross weight of the sweet corn delivered.

(c) Table Beets — \$.402 per ton based on the net weight of the table beets delivered.

(d) Carrots — \$.494 per ton based on the net weight of the carrots delivered.

(e) Broccoli — \$.2386 per ton based on the net weight of the broccoli delivered.

(f) Cauliflower — \$.926 per ton based on the net weight of the cauliflower delivered.

(2) From the price paid to the producer thereof, after July 1, 2011, for all of the above named vegetables for processing and grown in Oregon.

Stat. Auth.: ORS 576.051 - 576.595

Stats. Implemented: ORS 576.051 - 576.595

Hist.: PVC 2-1985, f. 7-17-85, ef. 7-22-85; PVC 1-1986, f. 5-30-86, ef. 6-1-86; PVC 2-1987, f. & ef. 6-16-87; PVC 1-1988, f. 4-22-88, cert. ef. 6-1-88; PVC 1-1989, f. 5-4-89, cert. ef. 6-1-89; PVC 1-1990, f. 4-24-90, cert. ef. 6-1-90; PVC 1-1991, f. 5-7-91, cert. ef. 6-1-91; PVC 1-1992, f. 4-15-92, cert. ef. 6-1-92; PVC 1-1993, f. 4-28-93, cert. ef. 6-21-93; PVC 1-1994, f. 4-22-94, cert. ef. 6-21-94; PVC 2-1995, f. 5-24-95, cert. ef. 6-1-95; PVC 1-1996, f. 5-14-96, cert. ef. 6-1-96; PVC 1-1997, f. 5-6-97, cert. ef. 6-1-97; OPVC 1-1998, f. 5-28-98, cert. ef. 6-1-98; OPVC 2-1999, f. 4-26-99, cert. ef. 6-1-99; OPVC 1-2000, f. 5-2-00, cert. ef. 6-1-00; OPVC 2-2001, f. 5-15-01, cert. ef. 6-1-01; OPVC 1-2002, f. 4-26-02, cert. ef. 6-1-02; OPVC 1-2003, f. 5-8-03, cert. ef. 6-1-03; OPVC 2-2004, f. 5-11-04, cert. ef. 6-1-04; OPVC 1-2005, f. 5-13-05, cert. ef. 6-1-05; OPVC 1-2006, f. 5-9-06, cert. ef. 6-1-06; OPVC 1-2007, f. 5-14-07, cert. ef. 6-1-07; OPVC 2-2008, f. 5-2-08, cert. ef. 6-1-08; OPVC 1-2009, f. 5-14-09, cert. ef. 7-1-09; OPVC 1-2010, f. 4-26-10, cert. ef. 7-1-10; OPVC 1-2011, f. 5-3-11, cert. ef. 7-1-11

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## Department of Community Colleges and Workforce Development Chapter 589

**Rule Caption:** Distribution of Community College Support Fund.

**Adm. Order No.:** DCCWD 1-2011

**Filed with Sec. of State:** 4-20-2011

**Certified to be Effective:** 4-20-11

**Notice Publication Date:** 3-1-2011

**Rules Amended:** 589-002-0100

**Subject:** This rule amendment adds a Biennial Growth Management Component to the Community College State Fund (CCSF) distribution formula. The calculation ties the 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 sub-component, 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 change 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 annual 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 2010–2011 FTE to which a start-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—(503) 947-2456

### 589-002-0100

#### Distribution of Community College Support Fund

(1) Purpose Statement:

(a) It is in the state's interest to support a strong local community college system that meets local, regional and state economic and workforce development needs. Short- and long-term interests include the consideration of such things as comparable District funding capability, maintaining small districts as a means of educational access and stable, predictable funding. Oregon's Community College distribution formula is designed to provide a financial foundation to support undergraduate and lower-division education, professional technical education, remedial education, local response to workforce training and other educational services necessary at the local and state level.

(b) The State Board through the authority vested in it by ORS 341.626, uses this rule to state clearly and concisely what the statewide interests are for Oregon community colleges and students through the adoption of a policy-driven distribution formula. The overarching policy levers, chosen by the State Board, have been structured to support access and quality and to do so with equity for Oregon students.

(c) The State Board, the Department, and the seventeen Oregon Community Colleges plan to pursue equalization of resources regardless of funding levels. This goal is reflected in the following principles:

(A) An expectation that equalization will be achieved in six years.

(B) Significant additional funds in a biennium compared to the previous biennium will benefit every college. The State Board will determine what level is significant on a biennial basis.

(C) Historic share of total public resources will be based on the immediate previous year for every year, with the exception of 2005-06. For 2005-06, historic share of public resources will be based on the average of 2003-04 and 2004-05.

(D) Buffered FTE will be used in the formula. The buffering is accomplished by using a three-year weighted average as defined in section (8)(b)(A).

(E) If significant additional resources are available compared to the previous biennium, equalization can go faster. The State Board will determine what level is significant on a biennial basis.

## ADMINISTRATIVE RULES

(F) The resource level available compared to the previous biennium may impact the pace of progress toward equalization.

(2) For purposes of this rule, the following definitions apply:

(a) "Total Public Resources." The Community College Support Fund formula considers 100% of the next year's imposed property tax revenue and the General Fund appropriation from the legislature.

(b) "Property tax revenues" is defined as the amount determined by the Department of Revenue to be imposed on local property following the application of limits imposed by sections 11(b)(1) through 11(b)(3), Article XI, of the Oregon Constitution, and those limits imposed by legislation implementing Ballot Measure 50. This amount becomes the basis for operation of the funding formula without regard to uncollectible taxes, or taxes collected from previous years. Taxes levied or imposed by a community college district to provide a public library system established prior to January 1, 1995 shall be excluded from the definition of property taxes in this rule. Property tax revenues raised through voter approval of any local option or capital construction levy are not to be included as a resource to be distributed through the funding formula.

(c) "Community College Support Fund" is defined as those funds received through the State's General Fund appropriation and distributed to the community colleges for the purpose of funding educational programs.

(d) "Full-Time Equivalent (FTE) Enrollment" is defined as 510 clock hours for all coursework and for all terms including a fall 12-week term. For an 11 week fall term, the following calculation will be used; 11/12 of 510 hours or 467.5 hours.

(e) "Total Weighted Reimbursable FTE" is defined as the sum of 40% of first year prior to current FTE, 30% of second year prior to current FTE, and 30% of third year prior to current FTE.

(f) "Historic Share of Public Resources" is defined as the percent of statewide non-base total public resources allocated to each Oregon community college in the prior period. With the exception of 2005-06, historic share of public resources is calculated by dividing each college's total public resources from the prior year, exclusive of the base, by Total Weighted Reimbursable FTE from the prior year. For 2005-06, historic share of public resources is calculated by dividing each college's average total public resources from the 2003-04 and 2004-05 fiscal years, exclusive of the base, by the amount of frozen reimbursable FTE used in both the 2003-04 and 2004-05 fiscal years.

(g) "Equalization" is defined as equal public resource support per Weighted Reimbursable FTE, regardless of institution, and exclusive of the base. Equalization is measured by dividing Total Public Resources, exclusive of the base, by Weighted Reimbursable FTE.

(3) The Community College Support Fund shall be distributed in equal payments as follows:

(a) For the first year of the biennium, August 15, October 15, January 15, and April 15;

(b) For the second year of the biennium, August 15, October 15, and January 15;

(c) The final payment of each biennium is deferred until July 15 of the following biennium as directed by Senate Bill 1022 of the Third Special Session of the 71st Oregon Legislative Assembly.

(d) Should any of the dates set forth above occur on a weekend, payment shall be made on the next business day.

(e) All payments made before actual property taxes imposed by each district are certified by the Oregon Department of Revenue shall be based on the Department's best estimate of quarterly entitlement using property tax revenue projections. Payments shall be recalculated each year as actual property tax revenues become available from the Oregon Department of Revenue and any adjustments will be made in the final payment(s) of the fiscal year.

(4)(a) Districts shall be required to submit enrollment reports in the format specified by the Commissioner, including numbers of clock hours realized for all coursework, in a term-end enrollment report by the Friday of the sixth week following the close of each term. If reports are outstanding at the time of the quarterly payments, payment to the district(s) not reporting may be delayed at the discretion of the Commissioner.

(b) All payments made before actual Full-Time Equivalent enrollment data are available shall be based on the Department's best estimate of quarterly entitlement using enrollment data from previous years. Payments shall be recalculated each year as actual Full-Time Equivalent enrollment data become available and any adjustments will be made in the fiscal year.

(5) Reimbursement from the Community College Support Fund shall be made for professional technical, lower division collegiate, developmental education and other courses approved by the State Board in accordance

with OAR 589-006-0100 through 589-006-0400. State reimbursement is not available for hobby and recreation courses as defined in 589-006-0400.

(6) Residents of the state of Oregon and the states of Idaho, Washington, Nevada, and California shall be counted as part of each Community College's Total Reimbursable FTE base but only for those students who take part in coursework offered within Oregon's boundaries.

(7) State funding for community college district operations is appropriated by the legislature on a biennial basis to the Community College Support Fund. For each biennium the amount of state funds available for distribution through the funding formula shall be calculated based on the following:

(a) Funds to support corrections programs shall be subtracted from the amount allocated to the Community College Support Fund before the formula is calculated. The amount available for corrections shall be equal to the funding amount in the preceding biennium, except as adjusted to reflect the same percentage increase or decrease realized in the overall Community College Support Fund appropriation. Funding for individual corrections programs will be determined in consultation with the Department of Corrections.

(b) Funds to support contracted out-of-district (COD) programs shall be subtracted from the amount allocated to the Community College Support Fund before the formula is calculated. The amount available for COD's shall be equal to the number of reimbursable COD FTE from the prior year multiplied by the statewide average amount of Non-Base Community College Support Funds per weighted FTE for the prior year. Community colleges providing contracted out-of-district services will receive an allocation equal to the college's number of reimbursable COD FTE from the prior year multiplied by the statewide average amount of Non-Base Community College Support Funds per weighted FTE for the prior year.

(c) The State Board may establish a Strategic Fund.

(A) There are two basic categories for these funds. Incentivized statewide initiatives and activities and requests from individual Districts for assistance in meeting new requirements and expectations stemming from legislative change.

(B) The Commissioner will use a committee of stakeholders and Department staff to determine overall priorities for funding that consider the State Board work plan and initiatives.

(C) Strategic Funds provided to incentivize statewide activities or assist Community Colleges in meeting legislative expectations are provided only for the biennium in which funding is approved. Strategic Funds allocated for either purpose will not be considered in the distribution of funds through the formula described in Section 8 for the current biennium or future biennia.

(D) Any unused monies remaining in the current biennium's Strategic Fund will be allocated through the formula described in Section 8 at the end of the biennium.

(E) The Commissioner will review, rank, and approve proposals to incentivize statewide activities. After each proposal is approved, the Commissioner will provide the State Board with a report detailing the purpose of the activity, the amount of Strategic Fund monies approved, and the proposal's merit as assessed under the following parameters:

(i) Purpose of the proposal.

(ii) How does the activity support the initiatives and work plans of the Department and the State Board.

(iii) Does the activity relate to the Department's Key Performance Measures or other program-specific measures?

(iv) Is the funding one time (for this biennium) or will additional funding be needed in the future?

(v) If future funding is needed, how will those resources be obtained? Is the activity sustainable?

(vi) What is the activity's impact on the State three years from now? Five years from now?

(vii) What change is anticipated?

(viii) How will progress be measured?

(F) The Department will bring all requests for assistance in meeting new requirements or expectations stemming from legislative change to the State Board for discussion and consideration.

(G) The Department will assess the requests for assistance in meeting new requirements or expectations of the Legislature based on the following parameters:

(i) Purpose of the proposal.

(ii) How will the funds be used? To sustain or increase enrollment (not supplanting existing funds)?

(iii) Is the funding one time (for this biennium) or will additional funding be needed in the future?

## ADMINISTRATIVE RULES

(iv) If future funding is needed, how will those resources be obtained? Is the activity sustainable?

(v) What is the proposal's impact on the Community College three years from now? Five years from now?

(vi) How will progress be measured?

(H) The Department will provide a recommendation and reasoning to the State Board on whether the request merits funding.

(d) Funds to support targeted investments such as distributed learning shall be subtracted from the amount allocated to the Community College Support Fund before the formula is calculated. The amount available for these investments shall be equal to the funding amount in the preceding biennium, except as adjusted to reflect the same percentage increase or decrease realized in the overall Community College Support Fund appropriation.

(e) Funds remaining in the Community College Support Fund shall be divided equally between the two years of the biennium, and will be distributed in equal payments as described in Section 3 and through a distribution formula as described in Section 8.

(8) Distribution of funds to Community College Districts from the Community College Support Fund shall be accomplished through a formula, based on the following factors:

(a) Base Payment. Each community college district shall receive a base payment of \$720 for each Weighted Reimbursable FTE up to 1,100 and \$360 per FTE for unrealized enrollments between actual Weighted Reimbursable FTE and 1,100 FTE. The base payment may be adjusted by the State Board each biennium. The base payment for each District will be adjusted according to the size of the District. District size for purposes of this adjustment will be determined each year by the FTE set forth in section (8)(b) of this rule. The base payment adjustments shall be:

(A) 0 — 750 FTE 1.3513;

(B) 751 — 1,250 FTE 1.2784;

(C) 1,251 — 1,750 FTE 1.2062;

(D) 1,751 — 2,250 FTE 1.1347;

(E) 2,251 — 2,750 FTE 1.0641;

(F) 2,751 — 3,250 FTE 1.0108;

(G) 3,251 — 3,750 FTE 1.0081;

(H) 3,751 — 4,250 FTE 1.0054;

(I) 4,251 — 4,999 FTE 1.0027;

(J) 5,000 or more FTE 1.000.

(b) Student-Centered Funding: The formula is designed to progress toward a distribution of funds based on Weighted Reimbursable FTE students. The equalized amount per Weighted Reimbursable FTE is determined by dividing total public resources — excluding base payments, contracted out-of-district payments, and any other payments directed by the State Board or the Legislature — by Total Weighted Reimbursable FTE. The Department shall make the calculation based on submission of FTE reports by the districts and in accordance with established FTE principles.

(A) A three-year weighted average of Total Reported Reimbursable FTE by the Community Colleges will be used with the first year prior to current actual enrollment weighted at 40%, second year prior to current actual enrollment weighted at 30% and third year prior to current actual enrollment weighted at 30%. The actual enrollment for any year may be adjusted by the Biennial Growth Management Component.

(c) 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 FTE. The purpose of the 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 Biennial Growth Management Component and the State Board of Education Biennial Quality Growth Factor.

(A) To establish the initial Annual Base Total Public Resources per FTE, the Funded Annual Base FTE used for weighting and the Annual Base TPR Per Funded FTE to be used for calculating the 2011-13 biennium Biennial Growth Management Components, the following calculations will be used:

(i) The initial Annual Base Total Public Resources per FTE is based on Fiscal Year 2009-10. The Total Public Resources for Fiscal Year 2009-10 is divided by the Fiscal Year 2009-10 actual FTE to arrive at the starting Annual Base Total Public Resources per FTE.

(ii) The Fiscal Year 2010-11 Funded Annual Base FTE used for weighting and to be used in the 2011-13 biennium is calculated using the following steps: First, divide the Annual Total Public Resources for Fiscal Year 2010-11 by the Fiscal Year 2009-10 Annual Base Total Public Resources per FTE. This provides the number of FTE that could be funded

and still maintain the Fiscal Year 2009-10 Annual Base Total Public Resources per FTE. Second, the Fiscal Year 2010-11 Start-up Growth Management Component is then calculated. The Fiscal Year 2010-11 Base Growth Management Component is equal to the percent difference between Fiscal Year 2009-10 actual FTE and the number of FTE that would maintain Fiscal Year 2009-10 Annual Base Total Public Resources per FTE. The State Board of Education will adopt a Fiscal Year 2010-11 Quality Growth Factor as defined in 8(c)(C). The Fiscal Year 2010-11 Base Growth Management Component and Quality Growth Factor added together equals the Fiscal Year 2010-11 Start-up Growth Management Component. Third, the Funded Annual Base FTE in Base Year 2010-11 used for weighting is calculated by multiplying the 2009-10 actual FTE and the 2010-11 start-up growth management component. This provides the number that is the Funded Annual Base FTE used for weighting to be used in the 2011-13 Biennial Growth Management Calculation.

(iii) The initial Annual Base Total Public Resources to be used in the 2011-13 biennium is calculated by adding the 2010-11 CCSF Resources distributed by formula to the community colleges 100% imposed property taxes for 2010-11.

(B) The Base Biennial Growth Management Component is the percent change of actual FTE enrollments, as described in (8)(b)(A) that would be included based on changes in inflation and total public resources. The Base Biennial Growth Management Component is calculated as follows in subsection (A)(i) through (A)(viii). [Table not included. See ED. NOTE.]

(i) The Annual Base Total Public Resources is defined as the prior biennium's Community College Support Fund available for distribution through the funding formula plus each Community College's imposed property tax annualized. The most recent Community College Support Fund Formula Distribution Model provides these numbers.

(ii) For purposes of this rule, Funded FTE is defined as the actual FTE enrollments that are to be included in the three-year weighted calculation after the Growth Management Component is applied.

(iii) The Funded Annual Base FTE is the prior biennium's Funded FTE enrollments annualized.

(iv) The Annual Base Total Public Resources per funded FTE is the Annual Base Total Public Resources divided by the Funded Annual Base FTE.

(v) The Annual Base Total Public Resources per FTE is increased based on the Current Service Level inflation for the Community College Support Fund calculated during the State's budget preparation process. This is the calculation for the new biennium's preliminary Cost Adjusted Total Public Resources per funded FTE.

(vi) The Annual Total Public Resources is defined as the annualized amount of the current biennium's Community College Support Fund available to distribute through the funding formula as of the first quarter of the biennium plus the Legislative Revenue Office's biennial projection of community college's property tax revenue.

(vii) The Funded FTE that will be used in weighting is calculated by dividing the Annual Total Public Resources by the Cost Adjusted Total Public Resources per funded FTE.

(viii) The Biennial Base Growth Management Component is the percentage change from the Funded Base FTE Enrollments to the Funded FTE to be used in the funding formula. The annual change is limited to half of the biennial percent change.

(C) 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 Growth Management Component. The SBE will consider the following principles as guidelines for setting the "quality growth factor":

(i) Balance the desire to support growth beyond that which is funded through the funding formula distribution model with the desire to enhance quality by increasing the level of funding provided on a per-student FTE basis.

(ii) The Total Public Resources per FTE should not erode by more than 5% on an annual basis.

(iii) Where current Total Public Resources per FTE is determined to be insufficient to support the "quality of education" desired, a growth factor could be established that would increase the Total Public Resources per FTE.

(iv) If revenue is significantly reduced during a biennium, the Board may reduce the "quality growth factor."

(D) The Growth Management Component is applied to an individual college's Actual FTE to determine the Funded FTE used in the three-year Total Weighted Reimbursable FTE. The lower of the actual FTE or the FTE

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allowed under the annual Growth Management component is used in the Weighted Reimbursable FTE for each college.

(a) For any given year for any individual institution, the maximum funded FTE is calculated by applying the Annual Growth Management Component to the greater of the two prior years' reimbursable FTE (RFTE) for that institution."

(d) Equalization. The State Board of Education expects to achieve Equalization in funding for all community college students in six years.

(A) Progress to Equalization is defined as: On an individual Community College level, progress toward Equalization will close the gap between non-base total public resource support per Weighted Reimbursable FTE and fully equalized non-base total public resource support per Weighted Reimbursable FTE by some fraction per year.

(B) The proposed model calculates how far each Community College's non-base allocation is from full equity every year, then moves incrementally toward Equalization each year. Each Community College makes the same percentage movement to Equalization each year unless the harm limit (described in section (8)(d)) is invoked. Community Colleges at or near equity do not move much in real dollars under the equity adjustment. Community Colleges further from equity move more in real dollars under the equity adjustment.

(C) In early years, the focus is on stability as Community Colleges adjust to Equalization. A smaller proportion of funds is distributed through Equalization and a larger proportion is distributed based on historic share of public resources. As the timeframe progresses, this proportion reverses, and in later years more funds are distributed through equalization.

(e) Harm Limit. The harm limit is designed to prevent individual Community Colleges from losing more than a certain percent of non-base total public resources from one year to the next due to Equalization. The harm limit does not limit losses in total public resources due to changes in FTE enrollment, changes in the General Fund appropriation, or changes in public resources. The harm limit is determined by combining the percent change in state appropriation funds from one year to the next with an adjustment percent determined by the State Board each year. In determining the adjustment, and therefore the total harm limit that results from combining the adjustment with the percent change in resources, the Board should consider the following issues:

(A) The total harm limit must not unnecessarily impede progress toward Equalization in the expected six-year period.

(B) The total harm limit should be adequate to ameliorate unreasonable negative effects of Equalization.

(f) Distribution of Significant Additional State Resources. In a biennium when significant additional state resources are available compared to the state appropriation in the previous biennium, in each year of the biennium:

(A) Fifty percent of additional state resources will be allocated through the Equalization methodology.

(B) The remaining fifty percent of additional state resources will be allocated based on the Community College's historic share of public resources.

(C) The State Board will determine on a biennial basis what level of additional resources is considered significant.

(D) The State Board retains the authority to alter the percent of significant additional state resources allocated according to equity and historic share of public resources for each biennium, beginning in 2007-09.

(9) State general fund and local property taxes for territories annexed or formed effective June 1, 1996, or later shall not be included in the funding formula for the first three years of service. Additionally, the FTE generated in newly annexed territories shall not impact the funding formula during the first three years of service. Beginning in the fourth year, funding will be distributed through the formula as outlined in this rule.

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

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

Stats. Implemented: ORS 341.015, 341.022, 341.317, 341.440, 341.525, 341.528, 341.626 & 341.665

Hist.: IEB 9-1979, f. & cert. 6-11-79; EB 12-1991, f. & cert. ef. 7-19-91; Renumbered from 581-043-0260; ODE 27-2000, f. & cert. ef. 10-30-00; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0200; DCCWD 2-2001, f. & cert. ef. 5-7-01; DCCWD 3-2002, f. & cert. ef. 6-5-02; DCCWD 7-2002(Temp), f. & cert. ef. 12-16-02 thru 6-5-03; DCCWD 3-2003, f. & cert. ef. 5-14-03; DCCWD 1-2004, f. & cert. ef. 7-1-04; DCCWD 1-2005, f. & cert. ef. 7-13-05; DCCWD 2-2006(Temp), f. & cert. ef. 6-15-06 thru 11-30-06; DCCWD 6-2006, f. 10-3-06, cert. ef. 10-4-06; DCCWD 8-2006, f. 12-13-06, cert. ef. 12-15-06; DCCWD 2-2007, f. & cert. ef. 7-6-07; DCCWD 4-2007, f. & cert. ef. 10-1-07; DCCWD 3-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; DCCWD 5-2009, f. & cert. ef. 10-28-09; DCCWD 1-2011, f. & cert. ef. 4-20-11

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

**Rule Caption:** Allows recreational vehicle fifth wheel trailers to have a maximum gross floor area up to 430 square feet.

**Adm. Order No.:** BCD 12-2011(Temp)

**Filed with Sec. of State:** 4-29-2011

**Certified to be Effective:** 5-2-11 thru 10-29-11

**Notice Publication Date:**

**Rules Amended:** 918-525-0005, 918-525-0035

**Subject:** This temporary rule allows recreational vehicle fifth wheel trailers with a gross floor area not exceeding 430 square feet in the setup mode to be offered for sale in Oregon.

**Rules Coordinator:** Stephanie Snyder—(503) 373-7438

### 918-525-0005

#### Definitions

The following definitions shall apply to OAR chapter 918, divisions 520, 525, and 530 and are in addition to those included in ORS 446.003 and 455.010:

(1) "Accessible" means having access thereto, but which may require removal of an access panel or opening a door.

(2) "Accessory Building" means an accessory building which specifically includes, but is not limited to, cabanas, ramadas, storage sheds, and garages.

(3) "Accessory Structure" means an accessory structure which specifically includes, but is not limited to, awnings, carports, decks, steps, and ramps.

(4) "Additional Living Space," as used in these rules has two meanings:

(a) As it relates to a cabana, means a freestanding, self-supporting accessory building installed adjacent to a recreational vehicle and subject to OAR 918-530-0320; or

(b) As it relates to additions to a recreational vehicle, means any attached structure that is dependent upon the recreational vehicle for support or systems. These attached structures shall be within the maximum allowable gross floor area of a non-motorized recreational vehicle, as identified in OAR 918-525-0035, and are subject to OAR 918-525-0040 standards for recreational vehicles or recreational park trailers as appropriate.

(5) "Adjustment of Equipment" means the adjustment of the rate, flow, speed, temperature, etc. as necessary for the continued operation of the equipment but does not include the repair, replacement, conversion, alteration, or addition to any equipment.

(6) "Anchoring System" means any equipment or device designed to secure a recreational vehicle for the purpose of resisting uplift, sliding, and overturning.

(7) "Controlled Fill" means fill intended to bear a structural load in which the fill material is placed in layers of soil, crushed stone or masonry waste material, compacted and tested to ensure it meets specified compaction standards determined by laboratory tests of soil samples from the fill material.

(8) "Design Option" means an option to a model or model group submitted with the original model or with a model supplement.

(9) "Earthquake-resistant Bracing System" means a certified anchoring system, bracing system, or other devices designed and constructed to protect the health and safety of the occupants of, and reducing damage to, a recreational park trailer in the event of an earthquake.

(10) "Field Technical Service" means the clarification of technical data, including but not limited to division interpretations, investigations, or training relating to the application of laws, rules, standards, and regulations administered and enforced by the Building Codes Division.

(11) "Full Foundation System" means a certified, engineered system of prefabricated foundation supports installed to the pier manufacturer's installation instructions.

(12) "Labeled" means equipment or materials, used in the manufacture or installation of a recreational vehicle, to which has been attached a label, symbol, or other identifying mark of a nationally recognized testing laboratory, inspection agency, or other organization, which evaluates products to nationally recognized standards and periodically inspects production of equipment and materials to show compliance with those standards for usage in a specified manner.

(13) "Listing Agency" means an agency that:

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(a) Is regularly engaged in conducting its own tests, or listing, labeling, or contracting its testing procedures to a nationally recognized testing agency;

(b) Maintains a periodic inspection program on production of currently listed products; and

(c) Publishes, at a minimum, an annual report which is used to determine whether products have been tested to such national standards and found safe for use in a specified manner.

(14) "Load Bearing Device" means any equipment or device used in the support of a recreational vehicle including, but not limited to, footings, piers, caps, and shims.

(15) "Main Frame" means the part of the structural system of a recreational vehicle normally used to transfer design load to the support system.

(16) "Minor Repair" means a simple repair such as replacing broken glass, fittings, devices, or fixtures, using approved component parts, but does not include the repair or replacement of major portions of the structural, plumbing, electrical, or mechanical systems or conversions, alterations, or additions.

(17) "Model" means an individual recreational vehicle designated by the manufacturer to be manufactured to a specific floor plan, which includes specific structural components, plumbing, electrical, and mechanical equipment, and installed and located in accordance with the plans submitted to the division.

(18) "Model Group" means two or more models with identical floor plans and plumbing, electrical and mechanical systems but identified by different names, numbers, or letters.

(19) "Noncompliance" means a failure of a recreational vehicle, equipment, or installation to comply with these rules or the codes and standards described in OAR 918-525-0040.

(20) "Notice of Violation" means written notification by the division stating the recreational vehicle or equipment may not be used, rented, leased, or sold or offered for sale, rent, or lease due to violations of ORS chapter 446 or these rules.

(21) "Option Ready" means a provision made during the manufacture of a recreational vehicle to facilitate the future installation of an appliance or other equipment (e.g., air conditioner, generator, dishwasher).

(22) "Park Trailer" or "Recreational Park Trailer" means a recreational vehicle built on a single chassis, mounted on wheels, which may be connected to utilities necessary for operation of installed fixtures and appliances, and with a gross trailer area not exceeding 400 square feet when in the set-up mode. Such a vehicle shall be referred to and identified by the manufacturer or converter as a recreational vehicle.

(23) "Pier" means that portion of the support system between the footing and the recreational vehicle.

(24) "Plan Supplement" means the revision, modification, or updating of an existing division-approved plan.

(25) "Prefabricated Pier" means a listed or approved pier which is manufactured at an off-site location but does not include concrete blocks.

(26) "Ramada" means a stationary structure having a roof extending over a recreational vehicle, which may also extend over a patio or parking space for motor vehicles, and is used principally for protection from snow, ice, sun, or rain.

(27) "Readily Accessible" means having direct access without the necessity of removing a panel, door, or similar obstruction.

(28) "Recreational Vehicle" means a vehicle as defined in ORS 446.003 and specifically includes camping trailers, camping vehicles, motor homes, recreational park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers, combination vehicles which include a recreational vehicle use, and any vehicle converted for use or partial use as a recreational vehicle. Recreational Vehicles contain eating and sleeping facilities and are equipped with one or more of the following:

- (a) Holding tank(s);
- (b) Liquid petroleum gas; or
- (c) A 110 to 240 volt electrical systems.

(29) "Recreational Vehicle Site" means a designated parcel of land designed to accommodate a recreational vehicle, its accessory structures or buildings and accessory equipment for the exclusive use of the occupant's recreational vehicle.

(30) "Registered Design Professional" as defined in the Oregon Residential Specialty Code is an individual who is registered or licensed to practice their respective design profession as defined by the statutory requirements of the professional registration laws of the state or jurisdiction in which the project is to be constructed.

(31) "Regulated Repair" means an alteration, repair, or conversion regulated by the codes and standards described in OAR 918-525-0040 but

excludes those unregulated repairs described in ORS 446.003(2)(b) and OAR 918-525-0350(2).

(32) "Repair" means the reconstruction or renewal of any part of an existing recreational vehicle or piece of equipment for the purpose of its maintenance.

(33) "Repair Operation" means any person in the business of making alterations, repairs, or conversions to recreational vehicles or recreational vehicle equipment regulated by the division under ORS Chapter 446 and these rules.

(34) "Replacement in Kind" means replacing equipment or accessories with approved like equipment or accessories such as switches, thermostats, fittings, elements, or motors, but does not include the replacement of major portions of the structural, plumbing, electrical, or mechanical systems.

(35) "Stabilizing Devices" means all components of the anchoring system and support systems such as piers, footings, ties, anchoring equipment, ground anchors, and any other equipment which supports or secures the recreational vehicle to the ground.

(36) "Stand" means that area of the recreational vehicle site which has been reserved for the placement of a recreational vehicle or accessory structure.

(37) "Support System" means a combination of footings, piers, caps, and shims that will, when properly installed, support the weight of the recreational vehicle, and all imposed live loads.

(38) "Technician" means a quality assurance technician approved by the division to perform inspections according to a repair operation's quality assurance manual.

(39) "Testing Laboratory" or "Testing Agency" means an organization:

- (a) In the business of testing equipment and systems;
  - (b) Qualified and equipped to perform or to observe experimental testing to approved standards;
  - (c) Not under the jurisdiction or control of any single manufacturer or supplier for an affected industry;
  - (d) Publishing reports, including specific information about the equipment and systems tested and found safe for use in a specified manner; and
  - (e) Whose methods and standards have been approved by the division.
- (40) "Travel Mode" means the overall size of the recreational vehicle as it travels on a highway including all horizontal projections except for expandable rooms, retractable awnings, exterior plumbing, mechanical, or electrical fixtures, or equipment or other minor exterior attachments.

(41) "Visual Inspection" means an inspection by the division of the visible portions of completed construction for the purpose of identifying code violations or approving and issuing an insignia of compliance.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90 BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 11-1997, f. 7-23-97, cert. ef. 1-1-98; BCD 9-1999, f. 7-14-99, cert. ef. 9-1-99; BCD 29-2000, f. & cert. ef. 12-19-00; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 12-2011(Temp), f. 4-29-11, cert. ef. 5-2-11 thru 10-29-11

## 918-525-0035

### Allowable Floor Areas

(1) Recreational vehicles and recreational park trailers are limited to a maximum gross floor area of 400 square feet in the setup mode, including all tip-outs, slide-outs, expandable rooms, and other horizontal projections. The 400 square foot limitation does not apply to:

- (a) Motorized recreational vehicles;
- (b) Fifth wheel trailers up to 430 square feet in the setup mode;
- (c) Vertical multi-level additions such as basements, second stories, lofts (mezzanines), or overhead storage with a maximum ceiling height of five feet;
- (d) Any space less than five feet in height which does not increase the size of the recreational vehicle or extend horizontally beyond the recreational vehicle floor line;
- (e) Bay windows, walk-a-bays, and other window projections with a floor or platform at least 12 inches above the vehicle floor;
- (f) Space occupied by drawbars, couplings, hitches, or lights;
- (g) Exterior chassis mounted decks, landings, platforms, or porches that are not enclosed;
- (h) Eaves, awnings, or porch roof overhangs; or
- (i) Freestanding, self-supporting cabanas approved for use as accessory buildings adjacent to the recreational park trailer according to OAR 918-530-0320.

(2) Factory-built porches, decks, roof overhangs, and other similar construction that is built by the manufacturer and connected to and supported by a recreational vehicle shall not be enclosed with walls, glass, or

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other solid materials if the gross floor area of the enclosure and the recreational vehicle combined would exceed the maximum allowable gross floor area.

(3) The gross floor area of a recreational vehicle shall not be increased through the use of a manufactured dwelling, another recreational vehicle, or through any other means except as specifically permitted by these rules.

(4) Additions that are structurally attached to a recreational vehicle and depend on the recreational vehicle for structural support or that are connected to the plumbing, mechanical, or electrical systems of the recreational vehicle, shall be considered part of the recreational vehicle or recreational park trailer, constructed to the recreational vehicle or recreational park trailer codes as described in OAR 918-525-0040 and shall be included within the maximum gross floor area allowed for the recreational vehicle and recreational park trailer.

(5) The gross floor area of a combination vehicle shall not exceed the maximum allowable gross floor area if there is no permanent separation between the recreational vehicle and the other use (i.e., horse trailer/recreational vehicle). When a combination vehicle has a permanent wall separating the two uses, only the recreational vehicle portion of the combination vehicle is limited to the maximum gross floor area.

Stat. Auth.: ORS 446.003 & 446.160

Stats. Implemented: ORS 446.003 & 446.160

Hist.: BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 9-1999, f. 7-14-99, cert. ef. 9-1-99; BCD 10-2000(Temp), f. 6-21-00, cert. ef. 6-23-00 thru 12-19-00; BCD 29-2000, f. & cert. ef. 12-19-00; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 12-2011(Temp), f. 4-29-11, cert. ef. 5-2-11 thru 10-29-11

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**Rule Caption:** Adopt the 2011 Oregon Residential Specialty Code.

**Adm. Order No.:** BCD 13-2011

**Filed with Sec. of State:** 5-13-2011

**Certified to be Effective:** 7-1-11

**Notice Publication Date:** 1-1-2011

**Rules Amended:** 918-480-0001, 918-480-0002, 918-480-0005, 918-480-0010, 918-480-0020, 918-480-0030, 918-480-0100, 918-480-0110, 918-480-0120, 918-480-0130, 918-480-0140, 918-480-0150

**Rules Repealed:** 918-001-0006

**Subject:** These rules adopt the 2011 Oregon Residential Specialty Code. The 2011 Oregon Residential Specialty Code consists of the following: structural and mechanical provisions from the 2009 edition of the International Residential Code with Oregon amendments; low-rise plumbing provisions in the 2011 Oregon Plumbing Specialty Code, which is based upon the 2009 Uniform Plumbing Code with Oregon amendments; low-rise electrical provisions in the 2011 Oregon Electrical Specialty Code, which is based upon the 2011 NFPA 70, National Electrical Code with Oregon amendments; and Appendix N, which is applicable to low-rise residential apartments and located in the 2010 Oregon Structural Specialty Code. These rules also include some non-substantive housekeeping changes to administrative rule that provide clarity and consistency among the Division's rules. Additionally, these rules include a 90-day transition period allowing builders and owners to submit plans and designs to either the 2011 Oregon Residential Specialty Code or the 2008 Oregon Residential Specialty Code.

**Rules Coordinator:** Stephanie Snyder—(503) 373-7438

## 918-480-0001

### Reasonable Notice to Interested Parties

Prior to the adoption, amendment or repeal of any rule relating to the **Oregon Residential Specialty Code**, the Building Codes Division must give notice of proposed action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date; and

(2) By notifying persons and organizations on the interested parties mailing list established under ORS 183.335(8) and 918-001-0210.

Stat. Auth.: ORS 183.335

Stats. Implemented: ORS 183.335

Hist.: BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 13-2011, f. 5-13-11, cert. ef. 7-1-11

## 918-480-0002

### Specialty Code Name Change

All references in OAR chapter 918 to the **Oregon One- and Two-Family Dwelling Specialty Code** mean the **Oregon Residential Specialty Code**.

[Publications: Publications referenced are available for review at the agency.]

Stat. Auth.: ORS 455.610

Stats. Implemented: ORS 455.610

Hist.: BCD 20-2004, f. 9-30-04, cert. ef. 10-1-04; BCD 13-2011, f. 5-13-11, cert. ef. 7-1-11

## 918-480-0005

### Adopted Oregon Residential Specialty Code

(1) The **Low-Rise Residential Dwelling Code**, identified in ORS 455.610, will be known as the **Oregon Residential Specialty Code**.

(2) Effective July 1, 2011, the 2011 **Oregon Residential Specialty Code** consists of the following:

(a) The **2009 Edition of the International Residential Code for One- and Two-Family Dwellings**, Chapters 1 through 24 and Chapter 44, Appendices E, F, G, H, K, R, and T as published by the International Code Council, Inc. and as further amended by the Division. Chapters 25 through 43, Appendix A, B, C, D, I, J, L, M, N, O, P, Q, and S are not adopted as part of the **Oregon Residential Specialty Code**.

(b) The low-rise plumbing provisions of the **Oregon Residential Specialty Code** are adopted in the **Oregon Plumbing Specialty Code**, which is based upon the **2009 Edition of the Uniform Plumbing Code**, as published by the International Association of Plumbing and Mechanical Officials and amended by the Division.

(c) The low-rise electrical provisions of the Oregon Residential Specialty Code are adopted in the **Oregon Electrical Specialty Code**, which is based upon the **2011 Edition of the NFPA 70, National Electrical Code** and amended by the Division. Oregon amendments to **NFPA 70, National Electrical Code** are adopted in OAR 918-305-0100, Table 1-E.

(d) Low-rise multi-family dwelling construction is adopted in **Appendix N of the Oregon Structural Specialty Code**.

(3) Applicability of code changes to pending applications. Code requirements in effect at the time a plan review or permit application is filed controls the construction under the application unless the applicant agrees to be controlled by subsequent changes.

(4) For the purposes of implementing a phase-in period for the **2011 Oregon Residential Specialty Code**, the **2008 Oregon Residential Specialty Code** is adopted for a period of 90-days beginning July 1, 2011 and ending September 30, 2011.

(5) During the 90-day phase-in period established in subsection (4), all building departments in the state are required to accept plans for low-rise residential dwellings designed to either the **2011 Oregon Residential Specialty Code** or to the **2008 Oregon Residential Specialty Code**.

[Publications: Publications referenced are available for review at the division. See division website for information on purchasing publications.]

Stat. Auth.: ORS 455.020, 455.030, 455.110, 455.380 & 455.525

Stats. Implemented: ORS 455.610

Hist.: DC 11-1986, f. 6-30-86, ef. 7-1-86; DC 6-1987(Temp), f. & ef. 4-3-87; Renumbered from 814-031-0005; BCA 3-1990, f. 1-30-90, cert. ef. 4-1-90; BCA 7-1990(Temp), f. 3-23-90, cert. ef. 4-1-90; BCA 21-1990, f. 8-28-90, cert. ef. 9-24-90; BCA 30-1990, f. 12-21-90, cert. ef. 1-1-92; BCA 8-1991, f. 4-10-91, cert. ef. 7-1-91; BCA 32-1991(Temp), f. & cert. ef. 9-30-91; BCA 1-1992, f. & cert. ef. 2-6-91; BCA 4-1992(Temp), f. 3-4-92, cert. ef. 3-5-92; BCA 6-1992, f. 3-24-92, cert. ef. 3-27-92; BCA 13-1992, f. 6-29-92, cert. ef. 7-1-92; BCA 28-1992(Temp), f. 12-30-92, cert. ef. 1-1-93; BCA 3-1993(Temp), f. & cert. ef. 3-3-93; BCA 7-1993, f. 4-28-93, cert. ef. 5-1-93; BCA 10-1993(Temp), f. & cert. ef. 6-11-93; BCD 3-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98, Renumbered from 918-480-0000; BCD 3-2000, f. 1-14-00 cert. ef. 4-1-00; 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 5-2008, f. 2-22-08, cert. ef. 4-1-08; BCD 13-2011, f. 5-13-11, cert. ef. 7-1-11

## 918-480-0010

### Amendments to the Oregon Residential Specialty Code

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.

[Publications: Publications referenced are available for review at the division. See division website for information on where to purchase publications.]

Stat. Auth.: ORS 455.020, 455.110, 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; BCD 11-2011(Temp), f. & cert. ef. 4-15-11 thru 9-30-11; BCD 13-2011, f. 5-13-11, cert. ef. 7-1-11

# ADMINISTRATIVE RULES

## 918-480-0020

### One- and Two-Family Dwelling Permit Fees

(1) Effective July 1, 1999, the Building Codes Division fees for administration of the **Oregon Residential Specialty Code** are found in **Table 1-A**. These fees are based on 130 percent of the **Uniform Building Code** and **Uniform Mechanical Code** as published by the International Conference of Building Officials, as authorized in ORS 455.210.

(2) Table 1-A Structural Permit Fees can be found at the end of division 480.

(3) Table 1-A Mechanical Permit Fees can be found at the end of division 480.

[Publications: Publications referenced are available for review at the agency.]

Stat. Auth.: ORS 455.020 & 455.210

Stats. Implemented: ORS 455.210

Hist.: BCD 8-1999(Temp), f. & cert. ef. 7-1-99 thru 12-27-99; BCD 11-1999, f. 9-7-99, cert. ef. 10-1-99; BCD 33-2002, f. 12-20-02 cert. ef. 4-1-03; BCD 15-2004, f. 9-10-04, cert. ef. 10-1-04; BCD 13-2011, f. 5-13-11, cert. ef. 7-1-11

## 918-480-0030

### Phased Project and Deferred Submittal Fees

When requested to review and approve plans for phased construction or deferred plan submittals under the **Oregon Residential Specialty Code**, the following fees in addition to the applicable plan review and permit fees apply:

(1) Phased Permits. There is an application fee of \$50 for each separate phase of the project. In addition, the plan review fee is increased in an amount equal to 10 percent of the building permit fee calculated according to OAR 918-480-0020 using the value of the particular phase of the project, not to exceed an additional \$1,500 for each phase.

(2) Deferred Submittals. The fee for processing and reviewing deferred plan submittals is an amount equal to 65 percent of the building permit fee calculated according to OAR 918-480-0020 using the value of the particular deferred portion or portions of the project. This fee is in addition to the project plan review fee based on total project value.

[Publications: Publications referenced are available for review at the agency.]

Stat. Auth.: ORS 455.020

Stats. Implemented: ORS 455.020

Hist.: BCD 26-2001, f. 12-28-01, cert. ef. 1-1-02; BCD 13-2011, f. 5-13-11, cert. ef. 7-1-11

## 918-480-0100

### Purpose and Scope

(1) The building official may allow an alternate to the minimum requirements of **Oregon Residential Specialty Code** as authorized by ORS 455.610, which may include, but is not limited to, installation of an automatic fire sprinkler system, where it is determined the fire apparatus means of approach to a property or the fire fighting water supply serving a property, does not meet the local standards adopted in accordance with the applicable fire code and state building code requirements. The rule applies only to dwellings and habitable rooms within accessory structures built under the **Oregon Residential Specialty Code** unless otherwise stated in the land use approvals for accessory structures built under this code.

(2) These rules are not intended to automatically require construction elements that are not otherwise required by the **Oregon Residential Specialty Code**.

(3) A request for an alternate under these rules may be approved only where the property is included in an area:

(a) Where there is an established and recognized provider of fire protection services; and

(b) Where there are local standards adopted in accordance with applicable fire code and state building code requirements identified for fire fighting water supply or fire apparatus access roads that include any or all of the following: public access roads, shared private access roads and private driveways.

[Publications: Publications referenced are available for review at the agency.]

Stat. Auth.: ORS 455.610

Stats. Implemented: ORS 455.610

Hist.: BCD 20-2002, f. 8-1-02, cert. ef. 10-1-02; BCD 13-2011, f. 5-13-11, cert. ef. 7-1-11

## 918-480-0110

### Definitions

For the purpose of these rules:

(1) "Fire Apparatus Means of Approach" may include a public access road, a shared private access road or a private driveway.

(2) "Private Driveway" means a private road giving fire apparatus access from a public access road or shared private access road to a building or buildings on a single property.

Stat. Auth.: ORS 455.610

Stats. Implemented: ORS 455.610

Hist.: BCD 20-2002, f. 8-1-02, cert. ef. 10-1-02; BCD 13-2011, f. 5-13-11, cert. ef. 7-1-11

## 918-480-0120

### Approval of an Alternate Method of Construction

The building official must ensure the following criteria have been met when allowing the use of an approved alternate method of fire protection under the scope of these rules:

(1) The alternate must be at the request of the applicant;

(2) For lots of record created on or after January 1, 2002, the building official must confirm the fire official having authority has, in accordance with the adopted fire code:

(a) Approved the alternate to adopted fire apparatus access road, private driveway or fire fighting water supply standards during the land use approval process; and

(b) The approved alternate has been recorded on the property deed as a requirement for future construction.

(3) For lots of record created before January 1, 2002, the building official must, prior to authorizing an alternate allowing the development of a parcel that could not otherwise be developed because it cannot meet adopted fire access road, private driveway or fire fighting water supply standards, consult with the fire official having authority to approve an alternate to fire access and water supply standards under the adopted fire code;

(4) Providing the requirements of this rule are met, the local building official is authorized to enforce the conditions of an approved alternate method of construction when it is part of the building construction; and

(5) When the approved alternate is a fire sprinkler system, the minimum standard for installation within one- and two-family dwellings must be the **NFPA 13-D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes** as adopted by reference in the **Oregon Residential Specialty Code**.

[Publications: Publications referenced are available for review at the agency.]

Stat. Auth.: ORS 455.610

Stats. Implemented: ORS 455.610

Hist.: BCD 20-2002, f. 8-1-02, cert. ef. 10-1-02; BCD 13-2011, f. 5-13-11, cert. ef. 7-1-11

## 918-480-0130

### Conventional Light Frame Construction

As per ORS 455.628, construction documents designed, prepared and sealed by an Oregon licensed architect or engineer, who has a valid Oregon Inspector Certification, and is also certified in the state of Oregon as one and two family dwelling plans examiners or is certified by the International Code Council as a Residential Building Inspector, are not required to obtain plan review for conventional light frame construction for detached one and two family dwellings. For the purpose of this rule, "Conventional Light Frame Construction" is defined as a type of construction that complies with the requirements under the latest edition of the **Oregon Residential Specialty Code** and subject to the following limitations:

(1) Buildings must be designed such that its vertical and horizontal structural elements are primarily formed by a system of repetitive wood or light gage steel framing members as allowed by the **Oregon Residential Specialty Code**;

(2) Buildings must be subject to the maximum height and story limitations as specified in the **Oregon Residential Specialty Code**;

(3) Bearing wall floor-to-floor heights may not exceed those specified in the **Oregon Residential Specialty Code**;

(4) All design loads, including wind and seismic loading may not be less than those allowed by the **Oregon Residential Specialty Code**;

(5) Site topography and site geotechnical limitations may not exceed those allowed by the **Oregon Residential Specialty Code**; and

(6) Buildings subject to the irregular building limitations as specified in the **Oregon Residential Specialty Code**.

Stat. Auth.: ORS 455.020, 455.030 & 455.628

Stat. Implemented: ORS 455.628

Hist.: BCD 11-2004, f. 8-13-04, cert. ef. 10-1-04; BCD 13-2011, f. 5-13-11, cert. ef. 7-1-11

## 918-480-0140

### Certificates of Occupancy — Residential

(1) Prior to occupancy of a new residential dwelling or townhouse the building official must issue a certificate of occupancy in the form and format established by the Division, unless a temporary certificate of occupancy is issued by the building official.

(2) For purposes of this rule, the terms "residential dwelling" and "townhouse" have the same meaning as in Section R202 of the **Oregon Residential Specialty Code**.

(3) Before the certificate of occupancy is issued, the general contractor or owner who was issued the structural permit for construction must provide to the building official the contact information and relevant license information for the general contractor, as well as any electrical contractor,



# ADMINISTRATIVE RULES

H-VAC contractor and plumbing contractor that performed work on the residential dwelling or townhouse.

(4) A building official may revoke a certificate of occupancy or a temporary certificate of occupancy when the residential dwelling or townhouse is in violation of applicable law that poses a threat to health and safety. The revocation must be in writing and state the basis for the revocation of the certificate of occupancy.

Stat. Auth.: ORS 455.055  
Stats. Implemented: ORS 455.055  
Hist.: BCD 3-2008, f. 2-21-08, cert. ef. 4-1-08; BCD 13-2011, f. 5-13-11, cert. ef. 7-1-11

## 918-480-0150

### Low Volume Window Label Program

(1) As used in this rule:

(a) "Exempt fenestration product" means a skylight or solarium that is exempt from the thermal performance standards established in the **Oregon Residential Specialty Code**.

(b) "Manufacturer" has the definition provided in Section NF1111.1 of the Oregon Residential Specialty Code.

(c) "Window produced in low volume" has the definition provided in Section NF1111.1 of the **Oregon Residential Specialty Code**.

(2) Manufacturers of windows produced in low volume or exempt fenestration products must participate in a labeling program administered by the Division. Participating manufacturers must:

(a) Print their own labels, subject to standards established in the **Oregon Residential Specialty Code**;

(b) Attach an appropriate label to each window produced in low volume or exempt fenestration product produced for installation in Oregon;

(c) Comply with any other applicable labeling requirements established in Section NF1114 of the **Oregon Residential Specialty Code**; and

(d) Maintain a log in which the attachment of each label is recorded.

(3) A manufacturer participating in the Division's labeling program must obtain, from the Division, a log for recording the attachment of labels to either windows produced in low volume or exempt fenestration products. A participating manufacturer must record in its log the type of window produced in low volume or exempt fenestration product that was labeled, the label's production number, and the date the label was attached. A copy of a manufacturer's labeling program log for the previous year must be sent to the Division by no later than January 31st of each year. The log must also be made available to the Division upon request.

(4) Participating manufacturers may not:

(a) Sell, exchange, or transfer their labels to another manufacturer;

(b) Purchase or obtain labels produced by another manufacturer; or

(c) Produce or use labels in excess of the maximum established by

Section NF1114 of the **Oregon Residential Specialty Code**.

Stat. Auth.: ORS 455.525  
Stats. Implemented: ORS 455.525  
Hist.: BCD 26-2008(Temp), f. & cert. ef. 11-3-08 thru 5-1-09; BCD 36-2008, f. 12-31-08, cert. ef. 1-1-09; BCD 13-2011, f. 5-13-11, cert. ef. 7-1-11

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**Rule Caption:** Amends 2010 Oregon Structural Specialty Code regarding alternate braced wall panels.

**Adm. Order No.:** BCD 14-2011(Temp)

**Filed with Sec. of State:** 5-13-2011

**Certified to be Effective:** 5-13-11 thru 11-9-11

**Notice Publication Date:**

**Rules Amended:** 918-460-0015

**Subject:** This temporary rule amends 2010 Oregon Structural Specialty Code, Section 2308.9.3.2 alternate braced wall panel adjacent to door or window opening. This temporary rule removes the requirement for a 4,200 pound tie-down and adjusts the panel size to compensate for this change.

**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 identified 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.

(3) Effective May 13, 2011, Section 2308.9.3.2 alternate braced wall panel adjacent to a door or window opening is amended for tie-down devices.

[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; BCD 14-2011(Temp), f. & cert. ef. 5-13-11 thru 11-9-11

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## Department of Corrections Chapter 291

**Rule Caption:** Death of an Inmate.

**Adm. Order No.:** DOC 8-2011

**Filed with Sec. of State:** 4-29-2011

**Certified to be Effective:** 5-2-11

**Notice Publication Date:** 4-1-2010

**Rules Adopted:** 291-027-0055, 291-027-0065

**Rules Amended:** 291-027-0020, 291-027-0030, 291-027-0040, 4-28-00, 291-027-0050, 291-027-0070, 291-027-0080

**Rules Repealed:** 291-027-0060

**Subject:** Modification and adoption of these rules is necessary to update and establish uniform procedures for prompt and proper reporting and investigation of an inmate death, compassion notification of the deceased inmate's emergency contact person, and disposition of the remains. These revisions are necessary to ensure rules align with current operations and organizational structure of the department.

**Rules Coordinator:** Janet R. Worley—(503) 945-0933

## 291-027-0020

### Definitions

(1) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(2) Emergency Contact Person: That individual(s) designated by an inmate to be notified in case of an emergency.

(3) Facility Contact Person: A staff member at each department facility designated by the functional unit manager to be responsible for coordinating contact and communication with the inmate's emergency contact person and other agencies as necessary.

(4) Functional Unit Manager: Any person within the Department of Corrections who reports either to the Director, an assistant director, or administrator and has responsibility for delivery of program services or coordination of program operations.

(5) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

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(6) Interstate Corrections Compact (ICC) Inmate: An inmate housed in a correctional facility in a state different than the sentencing jurisdiction under rules of the Interstate Correctional Compact.

(7) Officer-in-Charge: That person designated by the functional unit manager to supervise the facility and make operational decisions during periods when the functional unit manager or his/her designee is not readily available.

(8) Officer-of-the-Day: That person designated by the functional unit manager and approved by the Assistant Director for Operations or designee to act on behalf of the functional unit manager during non-business hours and other periods in which the functional unit manager may be absent.

(9) Rental Bed Inmate: An inmate sentenced to the Department of Corrections who is being housed in an Oregon jail.

(10) Trust Funds: Inmate money in the care and custody of the Department of Corrections that is deposited with the State Treasurer and managed by the Department of Corrections.

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

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

Hist.: CD 7-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 8-2011, f. 4-29-11, cert. ef. 5-2-11

## 291-027-0030

### Assessment and Security

(1) The first security employee at the scene of a suspected inmate death who is not involved in any rescue or first aid efforts will secure the scene, ascertain the identities of all those present and disperse all unauthorized individuals.

(a) Identification cards of all inmates present and dispersed will be gathered for positive identification and for later interviews.

(b) The officer-in-charge, facility contact person, and facility Health Services staff, if available, will be immediately notified of the suspected death. If Health Services staff are not on duty, the Medical Services manager will be notified. Health Services staff will notify the facility Chief Medical Officer.

(2) The officer-in-charge or designee will immediately ensure the emergency preparedness plan is implemented, if applicable.

(3) The officer-in-charge will designate an employee to maintain the security of the suspected death scene until released by State Police investigators. The death scene will be processed as a crime scene.

(a) This employee will initiate a crime scene contamination log (CD 1201D).

(b) The scene will be secured and evidence preserved, in accordance with the emergency preparedness plan, if applicable, and the Department of Corrections policy on Criminal Evidence Handling (70.1.3).

(4) Nothing within the death scene area will be moved or touched by anyone, unless the object needs to be removed because it is an immediate and ongoing threat to security, such as a weapon.

(a) The object will be photographed and diagrammed with relation to the rest of the death scene prior to its removal.

(b) Removal of the item will be in a manner consistent with preservation of evidence, ensuring not to destroy fingerprints, blood and other fragment evidence that might be affixed to the item, documenting who seized the item, who maintained custody of the item, and in what manner the item was secured.

(5) The officer-in-charge will report the incident to the functional unit manager or his/her designee, officer-of-the-day (if applicable), the State Police, and the medical examiner.

(6) The State Police will determine whether or not they should be present at the death scene. If the State Police determine they should be present, they will take charge of the death scene upon arrival.

(7) The State Police will remove and secure all property from the area that may be considered evidence.

(8) The officer-in-charge will designate one employee as the evidence custodian responsible for the handling, marking, packing, and securing of all evidence not removed by the State Police investigator.

(9) Witnesses or suspects will not be interviewed by Department of Corrections employees unless directed to do so by the State Police. Any comments made by suspects or witnesses to Department of Corrections employees will be noted and reported promptly.

(10) The functional unit manager or designee will notify appropriate staff, such as Behavioral Health Services staff or a chaplain, to provide services for inmates affected by the death as needed.

(11) Staff involved in an Inmate death incident will be offered support in accordance with the DOC policy on Employee Staff Services (20.5.2).

(12) The Medical Services manager shall request an autopsy for all inmate deaths.

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

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

Hist.: CD 7-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 8-2011, f. 4-29-11, cert. ef. 5-2-11

## 291-027-0040

### Removal of the Deceased

(1) The deceased and the death scene will be left undisturbed unless authorized under OAR 291-027-0030 (4).

(2) When the medical examiner and the State Police have released the body, the functional unit manager or designee will make arrangements for transportation of the deceased to the designated mortuary in accordance with contracts or local agreements negotiated by the department.

(3) Assigned staff will maintain supervision of the deceased until the appropriate mortuary has taken control of the remains. This includes expected deaths that occur at outside medical facilities. Exceptions may be made by the functional unit manager or designee only after coordination with the assigned State Police investigator.

(4) The State Police will determine the time and place that the deceased inmate will be fingerprinted and coordinate this process with the assigned institution when appropriate.

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

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

Hist.: CD 7-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 8-2011, f. 4-29-11, cert. ef. 5-2-11

## 291-027-0050

### Notifications

(1) The officer-in-charge or designee will make the necessary notifications in accordance with this rule, the emergency preparedness plan, and the Department of Corrections policy on Unusual Incidents Reporting Process (40.1.6).

(2) The Department Communications Manager is responsible for reporting the incident to the Director, Deputy Director and appropriate assistant director. This responsibility may be delegated to the functional unit manager.

(3) If the inmate death is from a suspected suicide, the Behavioral Health Services manager will be notified during the initial notifications immediately following the incident.

(4) If the deceased inmate is a citizen of a country other than the United States, Immigration and Customs Enforcement (ICE) and the appropriate consulate will be notified as soon as possible.

(5) If the deceased inmate is an ICC inmate housed by the department, the ICC coordinator will be notified by the functional unit manager or designee. The ICC coordinator will notify the administrator of the sentencing jurisdiction as soon as possible.

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

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

Hist.: CD 7-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 8-2011, f. 4-29-11, cert. ef. 5-2-11

## 291-027-0055

### Duties of the Facility Contact Person

(1) The facility contact person will coordinate contact with the inmate's emergency contact person after the State Police have authorized notification. The staff person notifying the inmate's emergency contact person may be the chaplain, facility contact person, or any other staff designated by the functional unit manager.

(2) The facility contact person is responsible for coordinating the processes associated with disposition of the deceased's inmate's remains and personal property.

(a) No specific details about circumstances surrounding the death will be provided without authorization of the State Police, district attorney, and the functional unit manager or designee.

(b) The notifying staff member shall not engage in speculation concerning the possible cause of death.

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

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

Hist.: DOC 8-2011, f. 4-29-11, cert. ef. 5-2-11

## 291-027-0065

### Disposition of Remains

(1) The inmate's emergency contact person will be given the option of arranging for the final disposition of the inmate's remains. All cost for those arrangements are the responsibility of the emergency contact person or family member that wishes to make those arrangements.

(2) Inmates shall make prior arrangements with their designated emergency contact person concerning any religious or personal preferences that they have regarding the disposition of their remains.

(3) The Department of Corrections is responsible for the final disposition of remains if the emergency contact person or family member of the inmate are unwilling or unable to do so.

(4) If the Department of Corrections becomes the responsible agent in this matter, the authorized mortuary will provide this final service in accordance with contracted services or local agreements.

# ADMINISTRATIVE RULES

(5) Trust funds from the deceased inmate's accounts shall not be used to offset expenses incurred by the Department of Corrections related to the inmate's death.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075  
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075  
Hist.: DOC 8-2011, f. 4-29-11, cert. ef. 5-2-11

## 291-027-0070

### Property and Fund Disposition

(1) The officer-in-charge will assure that an inventory is completed of the inmate's personal property and that it is secured for the State Police, if applicable.

(2) After the inmate's property has been released by the State Police, the facility contact person will make arrangements to have the property released to the emergency contact person.

(a) The facility contact person will coordinate the preparation of the property and arrange for disposition of this property with the inmate's emergency contact person. The property will be placed in an appropriately sized container for disposition.

(b) Abandoned property will be disposed of in accordance with OAR 291-117-0140, Disposition of Inmate Property.

(c) All documentation concerning the property will be processed and maintained in accordance with OAR 291-117-0140, Disposition of Inmate Property.

(3) Funds held in a deceased inmate's trust account will be disbursed in accordance with ORS 112 and the department's rule on Central Trust (OAR 291-158).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075  
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075  
Hist.: CD 7-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 8-2011, f. 4-29-11, cert. ef. 5-2-11

## 291-027-0080

### Death Outside the Facility

(1) Prior to Inmate Death: When imminent death can be predicted, Health Services staff will work with the officer-of-the-day to ensure that all appropriate notifications are completed in advance, including the medical examiner.

(2) Outside Work Crews: In the event of an incident involving death or possible death of an inmate assigned to an outside crew, the work crew supervisor will immediately activate local emergency medical services if available. The work crew supervisor will then notify the applicable facility. The officer-in-charge of the facility will be responsible to implement the procedures outlined in OAR 291-027-0030, Assessment and Security.

(3) ICC Inmate sentenced to DOC: The ICC agreement for all inmates sentenced to the department will address the arrangements to be used if the inmate dies while in custody of the receiving jurisdiction. Details of the agreement will include required notifications, transport of the body or remains, and financial responsibility for associated costs.

(4) Rental Bed Inmate: Local jurisdictions will report the death of any department inmate in their custody to the Department of Corrections as soon as possible, and furnish all information requested. The Department of Corrections is responsible for making final disposition of the inmate's body and providing notice to the inmate's emergency contact person. These arrangements will be included in all rental bed agreements.

(5) Outside Medical Facility: When an inmate dies while under the care of an outside medical facility, the staff assigned to the hospital watch or medical trip escort will be responsible for immediately contacting the officer-in-charge at the inmate's assigned institution.

(a) The officer-in-charge of the facility will be responsible to implement the procedures outlined in OAR 291-027-0030, Assessment and Security.

(b) The officer-in-charge will determine if a crime scene log needs to be initiated.

(c) Arrangements for transportation of the deceased inmate from the outside medical facility to the designated mortuary will be made in accordance with contracts or local agreements negotiated by the department.

(d) The staff assigned to hospital watch will remain with the deceased inmate until the designated mortuary has taken control of the remains. Exceptions may be made by the functional unit manager or designee only after coordination with the assigned State Police investigator.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075  
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075  
Hist.: CD 7-1994, f. 3-18-94, cert. ef. 4-1-94; DOC 8-2011, f. 4-29-11, cert. ef. 5-2-11

## Department of Environmental Quality Chapter 340

**Rule Caption:** Adoption of Air Quality Permit Program Streamlining and Updates.

**Adm. Order No.:** DEQ 5-2011

**Filed with Sec. of State:** 4-29-2011

**Certified to be Effective:** 5-1-11

**Notice Publication Date:** 11-1-2010

**Rules Amended:** 340-200-0020, 340-200-0025, 340-200-0040, 340-202-0010, 340-202-0060, 340-202-0210, 340-215-0060, 340-216-0020, 340-216-0025, 340-216-0040, 340-216-0052, 340-216-0054, 340-216-0056, 340-216-0060, 340-216-0064, 340-216-0066, 340-216-0070, 340-216-0090, 340-222-0042, 340-222-0045, 340-224-0010, 340-224-0050, 340-224-0060, 340-224-0070, 340-225-0020, 340-225-0030, 340-225-0045, 340-225-0050, 340-225-0060, 340-225-0090, 340-228-0300, 340-246-0230

**Subject:** PM<sub>2.5</sub> New Source Review/Prevention of Significant Deterioration; The EQC amended rules to establish PM<sub>2.5</sub> New Source Review/Prevention of Significant Deterioration (NSR/PSD) for fine particles (PM<sub>2.5</sub> or particulate matter less than 2.5 microns in diameter.) The rules help DEQ and businesses implement NSR/PSD as the U.S. Environmental Protection Agency (EPA) intended.

Greenhouse Gas (GHG) Prevention of Significant Deterioration: The EQC amended Prevention of Significant Deterioration (PSD) rules to include greenhouse gases in response to EPA regulations and clarified NSR/PSD rules to allow DEQ to continue implementing the PSD program in Oregon.

Small Scale Renewable Energy Sources: EPA requires states to have minor source construction approval programs but gives states flexibility in how to do this. Oregon's minor source construction approval program basically applies major source NSR/PSD requirements to any source with emissions over the significant emission rate (SER) including some areas where the Oregon SER is lower than the federal SER. HB 2952 revised how the minor source construction approval program works for small scale local energy projects. The EQC amended NSR/PSD rules to incorporate changes to ORS 468A.040 for small scale local energy projects.

Permitting Rule Updates: Oregon's permitting rule incorporates the federal acid rain program rules by reference. The EQC amended the permitting rules to reference the federal acid rain rules updated July 2, 2010.

DEQ will submit these rules to the EPA as a revision to the State Implementation Plan, which is a requirement of the Clean Air Act.

**Rules Coordinator:** Maggie Vandehey — (503) 229-6878

## 340-200-0020

### General Air Quality Definitions

As used in divisions 200 through 268, unless specifically defined otherwise:

(1) "Act" or "FCAA" means the Federal Clean Air Act, 42 U.S.C.A. 7401 to 7671q.

(2) "Activity" means any process, operation, action, or reaction (e.g., chemical) at a source that emits a regulated pollutant.

(3) "Actual emissions" means the mass emissions of a pollutant from an emissions source during a specified time period.

(a) For determining actual emissions as of the baseline period:

(A) Except as provided in paragraphs (B) and (C) of this subsection and subsection (b) of this section, actual emissions equal the average rate at which the source actually emitted the pollutant during an applicable baseline period and that represents normal source operation;

(B) The Department presumes that the source-specific mass emissions limit included in a source's permit that was effective on September 8, 1981 is equivalent to the source's actual emissions during the applicable baseline period if it is within 10% of the actual emissions calculated under paragraph (A) of this subsection.

(C) Actual emissions equal the potential to emit of the source for the sources listed in paragraphs (i) through (iii) of this paragraph. The actual emissions will be reset if required in accordance with subsection (c) of this section.

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(i) Any source or part of a source that had not begun normal operations during the applicable baseline period but was approved to construct and operate before or during the baseline period in accordance with OAR 340 division 210, or

(ii) Any source or part of a source of greenhouse gases that had not begun normal operations prior to January 1, 2010, but was approved to construct and operate prior to January 1, 2011 in accordance with OAR 340 division 210, or

(iii) Any source or part of a source that had not begun normal operations during the applicable baseline period and was not required to obtain approval to construct and operate before or during the applicable baseline period.

(b) For any source or part of a source that had not begun normal operations during the applicable baseline period, but was approved to construct and operate in accordance with OAR 340 division 224, actual emissions on the date the permit is issued equal the potential to emit of the source. The actual emissions will be reset if required in accordance with subsection (c) of this section.

(c) Where actual emissions equal potential to emit under paragraph (a)(C) or subsection (b) of this section, the potential emissions will be reset to actual emissions as follows:

(A) Paragraphs (A) through (D) of this subsection apply to sources whose actual emissions of greenhouse gases were determined pursuant to paragraph 3(a)(C), and to all other sources of all other regulated pollutants that are permitted in accordance with OAR division 224 on or after May 1, 2011.

(B) Except as provided in paragraph (D) of this subsection, ten years from the end of the applicable baseline period under paragraph (a)(C) or ten years from the date the permit is issued under subsection (b), or an earlier time if requested by the source in a permit application involving public notice, the Department will reset actual emissions to equal the highest actual emission rate during any consecutive 12-month period during the ten year period or any shorter period if requested by the source.

(C) Any emission reductions achieved due to enforceable permit conditions based on OAR 340-226-0110 and 0120 (highest and best practicable treatment and control) are not included in the reset calculation required in paragraph (B) of this subsection.

(D) The Department may extend the date of resetting by five additional years upon satisfactory demonstration by the source that construction is ongoing or normal operation has not yet been achieved.

(d) For determining actual emissions for Emission Statements under OAR 340-214-0200 through 340-214-0220 and Oregon Title V Operating Permit Fees under OAR 340 division 220, actual emissions include, but are not limited to, routine process emissions, fugitive emissions, excess emissions from maintenance, startups and shutdowns, equipment malfunction, and other activities, except categorically insignificant activities and secondary emissions.

(e) For Oregon Title V Operating Permit Fees under OAR 340 division 220, actual emissions must be directly measured with a continuous monitoring system or calculated using a material balance or verified emission factor determined in accordance with division 220 in combination with the source's actual operating hours, production rates, or types of materials processed, stored, or combusted during the specified time period.

(4) "Adjacent" means interdependent facilities that are nearby to each other.

(5) "Affected source" means a source that includes one or more affected units that are subject to emission reduction requirements or limitations under Title IV of the FCAA.

(6) "Affected states" means all states:

(a) Whose air quality may be affected by a proposed permit, permit modification, or permit renewal and that are contiguous to Oregon; or

(b) That are within 50 miles of the permitted source.

(7) "Aggregate insignificant emissions" means the annual actual emissions of any regulated air pollutant from one or more designated activities at a source that are less than or equal to the lowest applicable level specified in this section. The total emissions from each designated activity and the aggregate emissions from all designated activities must be less than or equal to the lowest applicable level specified.

(a) One ton for total reduced sulfur, hydrogen sulfide, sulfuric acid mist, any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, and each criteria pollutant, except lead;

(b) 120 pounds for lead;

(c) 600 pounds for fluoride;

(d) 500 pounds for PM10 in a PM10 nonattainment area;

(e) 500 pounds for direct PM2.5 in a PM2.5 nonattainment area;

(f) The lesser of the amount established in OAR 340-244-0040, Table 1 or 340-244-0230, Table 3, or 1,000 pounds;

(g) An aggregate of 5,000 pounds for all Hazardous Air Pollutants;

(h) 2,756 tons CO<sub>2</sub>e for greenhouse gases.

(8) "Air Contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter, or any combination thereof.

(9) "Air Contaminant Discharge Permit" or "ACDP" means a written permit issued, renewed, amended, or revised by the Department, pursuant to OAR 340 division 216.

(10) "Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference or equivalent method but has been demonstrated to the Department's satisfaction to, in specific cases, produce results adequate for determination of compliance. An alternative method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to the Department.

(11) "Ambient Air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(12) "Applicable requirement" means all of the following as they apply to emissions units in an Oregon Title V Operating Permit program source or ACDP program source, including requirements that have been promulgated or approved by the EPA through rule making at the time of issuance but have future-effective compliance dates:

(a) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by the EPA through rule-making under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52;

(b) Any standard or other requirement adopted under OAR 340-200-0040 of the State of Oregon Clean Air Act Implementation Plan, that is more stringent than the federal standard or requirement which has not yet been approved by the EPA, and other state-only enforceable air pollution control requirements;

(c) Any term or condition in an ACDP, OAR 340 division 216, including any term or condition of any preconstruction permits issued pursuant to OAR 340 division 224, New Source Review, until or unless the Department revokes or modifies the term or condition by a permit modification;

(d) Any term or condition in a Notice of Construction and Approval of Plans, OAR 340-210-0205 through 340-210-0240, until or unless the Department revokes or modifies the term or condition by a Notice of Construction and Approval of Plans or a permit modification;

(e) Any term or condition in a Notice of Approval, OAR 340-218-0190, issued before July 1, 2001, until or unless the Department revokes or modifies the term or condition by a Notice of Approval or a permit modification;

(f) Any term or condition of a PSD permit issued by the EPA until or unless the EPA revokes or modifies the term or condition by a permit modification;

(g) Any standard or other requirement under section 111 of the Act, including section 111(d);

(h) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act;

(i) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(j) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;

(k) Any standard or other requirement under section 126(a)(1) and (c) of the Act;

(l) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(m) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(n) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(o) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act;

(p) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in an Oregon Title V Operating Permit; and

(q) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

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(13) "Baseline Emission Rate" means the actual emission rate during a baseline period. Baseline emission rate does not include increases due to voluntary fuel switches or increased hours of operation that occurred after that baseline period.

(a) A baseline emission rate will be established only for regulated pollutants subject to OAR 340 division 224 as specified in the definition of regulated pollutant. A baseline emission rate will not be established for PM<sub>2.5</sub>.

(b) The baseline emission rate for greenhouse gases, on a CO<sub>2</sub>e basis, will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.

(c) For a pollutant that becomes a regulated pollutant subject to OAR 340 division 224 after May 1, 2011, the initial baseline emission rate is the actual emissions of that pollutant during any consecutive 12 month period within the 24 months immediately preceding its designation as a regulated pollutant if a baseline period has not been defined for the pollutant.

(d) The baseline emission rate will be recalculated if actual emissions are reset in accordance with the definition of actual emissions.

(e) Once the baseline emission rate has been established or recalculated in accordance with subsection (d) of this section, the production basis for the baseline emission rate may only be changed if a material mistake or an inaccurate statement was made in establishing the production basis for baseline emission rate.

(14) "Baseline Period" means:

(a) Any consecutive 12 calendar month period during the calendar years 1977 or 1978 for any regulated pollutant other than greenhouse gases. The Department may allow the use of a prior time period upon a determination that it is more representative of normal source operation.

(b) Any consecutive 12 calendar month period during the calendar years 2000 through 2010 for greenhouse gases.

(15) "Best Available Control Technology" or "BACT" means an emission limitation, including, but not limited to, a visible emission standard, based on the maximum degree of reduction of each air contaminant subject to regulation under the Act which would be emitted from any proposed major source or major modification which, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air contaminant. In no event may the application of BACT result in emissions of any air contaminant that would exceed the emissions allowed by any applicable new source performance standard or any standard for hazardous air pollutant. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required. Such standard must, to the degree possible, set forth the emission reduction achievable and provide for compliance by prescribing appropriate permit conditions.

(16) "Biomass" means non-fossilized and biodegradable organic material originating from plants, animals, and micro-organisms, including products, byproducts, residues and waste from agriculture, forestry, and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic matter.

(17) "Capacity" means the maximum regulated pollutant emissions from a stationary source under its physical and operational design.

(18) "Capture system" means the equipment (including but not limited to hoods, ducts, fans, and booths) used to contain, capture and transport a pollutant to a control device.

(19) "Carbon dioxide equivalent" or "CO<sub>2</sub>e" means an amount of a greenhouse gas or gases expressed as the equivalent amount of carbon dioxide, and shall be computed by multiplying the mass of each of the greenhouse gases by the global warming potential published for each gas at 40 CFR Part 98, subpart A, Table A-1—Global Warming Potentials, and adding the resulting value for each greenhouse gas to compute the total equivalent amount of carbon dioxide. (20) "Categorically insignificant activity" means any of the following listed pollutant emitting activities principally supporting the source or the major industrial group. Categorically insignificant activities must comply with all applicable requirements.

(a) Constituents of a chemical mixture present at less than 1% by weight of any chemical or compound regulated under divisions 200 through 268 excluding divisions 248 and 262 of this chapter, or less than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and

Human Service's Annual Report on Carcinogens when usage of the chemical mixture is less than 100,000 pounds/year;

(b) Evaporative and tail pipe emissions from on-site motor vehicle operation;

(c) Distillate oil, kerosene, and gasoline fuel burning equipment rated at less than or equal to 0.4 million Btu/hr;

(d) Natural gas and propane burning equipment rated at less than or equal to 2.0 million Btu/hr;

(e) Office activities;

(f) Food service activities;

(g) Janitorial activities;

(h) Personal care activities;

(i) Groundskeeping activities including, but not limited to building painting and road and parking lot maintenance;

(j) On-site laundry activities;

(k) On-site recreation facilities;

(l) Instrument calibration;

(m) Maintenance and repair shop;

(n) Automotive repair shops or storage garages;

(o) Air cooling or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;

(p) Refrigeration systems with less than 50 pounds of charge of ozone depleting substances regulated under Title VI, including pressure tanks used in refrigeration systems but excluding any combustion equipment associated with such systems;

(q) Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated vacuum producing devices but excluding research and development facilities;

(r) Temporary construction activities;

(s) Warehouse activities;

(t) Accidental fires;

(u) Air vents from air compressors;

(v) Air purification systems;

(w) Continuous emissions monitoring vent lines;

(x) Demineralized water tanks;

(y) Pre-treatment of municipal water, including use of deionized water purification systems;

(z) Electrical charging stations;

(aa) Fire brigade training;

(bb) Instrument air dryers and distribution;

(cc) Process raw water filtration systems;

(dd) Pharmaceutical packaging;

(ee) Fire suppression;

(ff) Blueprint making;

(gg) Routine maintenance, repair, and replacement such as anticipated activities most often associated with and performed during regularly scheduled equipment outages to maintain a plant and its equipment in good operating condition, including but not limited to steam cleaning, abrasive use, and woodworking;

(hh) Electric motors;

(ii) Storage tanks, reservoirs, transfer and lubricating equipment used for ASTM grade distillate or residual fuels, lubricants, and hydraulic fluids;

(jj) On-site storage tanks not subject to any New Source Performance Standards (NSPS), including underground storage tanks (UST), storing gasoline or diesel used exclusively for fueling of the facility's fleet of vehicles;

(kk) Natural gas, propane, and liquefied petroleum gas (LPG) storage tanks and transfer equipment;

(ll) Pressurized tanks containing gaseous compounds;

(mm) Vacuum sheet stacker vents;

(nn) Emissions from wastewater discharges to publicly owned treatment works (POTW) provided the source is authorized to discharge to the POTW, not including on-site wastewater treatment and/or holding facilities;

(oo) Log ponds;

(pp) Storm water settling basins;

(qq) Fire suppression and training;

(rr) Paved roads and paved parking lots within an urban growth boundary;

(ss) Hazardous air pollutant emissions of fugitive dust from paved and unpaved roads except for those sources that have processes or activities that contribute to the deposition and entrainment of hazardous air pollutants from surface soils;

(tt) Health, safety, and emergency response activities;

(uu) Emergency generators and pumps used only during loss of primary equipment or utility service due to circumstances beyond the reason-

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able control of the owner or operator, or to address a power emergency as determined by the Department;

(vv) Non-contact steam vents and leaks and safety and relief valves for boiler steam distribution systems;

(ww) Non-contact steam condensate flash tanks;

(xx) Non-contact steam vents on condensate receivers, deaerators and similar equipment;

(yy) Boiler blowdown tanks;

(zz) Industrial cooling towers that do not use chromium-based water treatment chemicals;

(aaa) Ash piles maintained in a wetted condition and associated handling systems and activities;

(bbb) Oil/water separators in effluent treatment systems;

(ccc) Combustion source flame safety purging on startup;

(ddd) Broke beaters, pulp and repulping tanks, stock chests and pulp handling equipment, excluding thickening equipment and repulpers;

(eee) Stock cleaning and pressurized pulp washing, excluding open stock washing systems; and

(fff) White water storage tanks.

(21) "Certifying individual" means the responsible person or official authorized by the owner or operator of a source who certifies the accuracy of the emission statement.

(22) "CFR" means Code of Federal Regulations.

(23) "Class I area" means any Federal, State or Indian reservation land which is classified or reclassified as Class I area. Class I areas are identified in OAR 340-204-0050.

(24) "Commence" or "commencement" means that the owner or operator has obtained all necessary preconstruction approvals required by the Act and either has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source to be completed in a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time.

(25) "Commission" or "EQC" means Environmental Quality Commission.

(26) "Constant Process Rate" means the average variation in process rate for the calendar year is not greater than plus or minus ten percent of the average process rate.

(27) "Construction":

(a) Except as provided in subsection (b) of this section means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of a source or part of a source;

(b) As used in OAR 340 division 224 means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of an emissions unit, or change in the method of operation of a source which would result in a change in actual emissions.

(28) "Continuous compliance determination method" means a method, specified by the applicable standard or an applicable permit condition, which:

(a) Is used to determine compliance with an emission limitation or standard on a continuous basis, consistent with the averaging period established for the emission limitation or standard; and

(b) Provides data either in units of the standard or correlated directly with the compliance limit.

(29) "Continuous Monitoring Systems" means sampling and analysis, in a timed sequence, using techniques which will adequately reflect actual emissions or concentrations on a continuing basis in accordance with the Department's Continuous Monitoring Manual, and includes continuous emission monitoring systems, continuous opacity monitoring system (COMS) and continuous parameter monitoring systems.

(30) "Control device" means equipment, other than inherent process equipment, that is used to destroy or remove air pollutant(s) prior to discharge to the atmosphere. The types of equipment that may commonly be used as control devices include, but are not limited to, fabric filters, mechanical collectors, electrostatic precipitators, inertial separators, afterburners, thermal or catalytic incinerators, adsorption devices (such as carbon beds), condensers, scrubbers (such as wet collection and gas absorption devices), selective catalytic or non-catalytic reduction systems, flue gas recirculation systems, spray dryers, spray towers, mist eliminators, acid plants, sulfur recovery plants, injection systems (such as water, steam, ammonia, sorbent or limestone injection), and combustion devices independent of the particular process being conducted at an emissions unit (e.g., the destruction of emissions achieved by venting process emission streams

to flares, boilers or process heaters). For purposes of OAR 340-212-0200 through 340-212-0280, a control device does not include passive control measures that act to prevent pollutants from forming, such as the use of seals, lids, or roofs to prevent the release of pollutants, use of low-polluting fuel or feedstocks, or the use of combustion or other process design features or characteristics. If an applicable requirement establishes that particular equipment which otherwise meets this definition of a control device does not constitute a control device as applied to a particular pollutant-specific emissions unit, then that definition will be binding for purposes of OAR 340-212-0200 through 340-212-0280.

(31) "Criteria Pollutant" means nitrogen oxides, volatile organic compounds, particulate matter, PM10, PM2.5, sulfur dioxide, carbon monoxide, or lead.

(32) "Data" means the results of any type of monitoring or method, including the results of instrumental or non-instrumental monitoring, emission calculations, manual sampling procedures, recordkeeping procedures, or any other form of information collection procedure used in connection with any type of monitoring or method.

(33) "De minimis emission levels" mean the levels for the pollutants listed in Table 4.

NOTE: De minimis is compared to all increases that are not included in the PSEL.

(34) "Department":

(a) Means Department of Environmental Quality; except

(b) As used in OAR 340 divisions 218 and 220 means Department of Environmental Quality or in the case of Lane County, Lane Regional Air Protection Agency.

(35) "Device" means any machine, equipment, raw material, product, or byproduct at a source that produces or emits a regulated pollutant.

(36) "Direct PM2.5" has the meaning provided in the definition of PM2.5.

(37) "Director" means the Director of the Department or the Director's designee.

(38) "Draft permit" means the version of an Oregon Title V Operating Permit for which the Department or Lane Regional Air Protection Agency offers public participation under OAR 340-218-0210 or the EPA and affected State review under 340-218-0230.

(39) "Effective date of the program" means the date that the EPA approves the Oregon Title V Operating Permit program submitted by the Department on a full or interim basis. In case of a partial approval, the "effective date of the program" for each portion of the program is the date of the EPA approval of that portion.

(40) "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency does not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

(41) "Emission" means a release into the atmosphere of any regulated pollutant or any air contaminant.

(42) "Emission Estimate Adjustment Factor" or "EEAF" means an adjustment applied to an emission factor to account for the relative inaccuracy of the emission factor.

(43) "Emission Factor" means an estimate of the rate at which a pollutant is released into the atmosphere, as the result of some activity, divided by the rate of that activity (e.g., production or process rate).

(44)(a) Except as provided in subsection (b) of this section, "Emission Limitation" and "Emission Standard" mean a requirement established by a State, local government, or the EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(b) As used in OAR 340-212-0200 through 340-212-0280, "Emission limitation or standard" means any applicable requirement that constitutes an emission limitation, emission standard, standard of performance or means of emission limitation as defined under the Act. An emission limitation or standard may be expressed in terms of the pollutant, expressed either as a specific quantity, rate or concentration of emissions (e.g., pounds of SO2 per hour, pounds of SO2 per million British thermal units of fuel input, kilograms of VOC per liter of applied coating solids, or parts per million by volume of SO2) or as the relationship of uncontrolled to controlled emissions (e.g., percentage capture and destruction efficiency of VOC or percentage reduction of SO2). An emission limitation or standard may also be

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expressed either as a work practice, process or control device parameter, or other form of specific design, equipment, operational, or operation and maintenance requirement. For purposes of 340-212-0200 through 340-212-0280, an emission limitation or standard does not include general operation requirements that an owner or operator may be required to meet, such as requirements to obtain a permit, to operate and maintain sources in accordance with good air pollution control practices, to develop and maintain a malfunction abatement plan, to keep records, submit reports, or conduct monitoring.

(45) "Emission Reduction Credit Banking" means to presently reserve, subject to requirements of OAR 340 division 268, Emission Reduction Credits, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements.

(46) "Emission Reporting Form" means a paper or electronic form developed by the Department that must be completed by the permittee to report calculated emissions, actual emissions, or permitted emissions for interim emission fee assessment purposes.

(47) "Emissions unit" means any part or activity of a source that emits or has the potential to emit any regulated air pollutant.

(a) A part of a source is any machine, equipment, raw material, product, or byproduct that produces or emits regulated air pollutants. An activity is any process, operation, action, or reaction (e.g., chemical) at a stationary source that emits regulated air pollutants. Except as described in subsection (d) of this section, parts and activities may be grouped for purposes of defining an emissions unit if the following conditions are met:

(A) The group used to define the emissions unit may not include discrete parts or activities to which a distinct emissions standard applies or for which different compliance demonstration requirements apply; and

(B) The emissions from the emissions unit are quantifiable.

(b) Emissions units may be defined on a pollutant by pollutant basis where applicable.

(c) The term emissions unit is not meant to alter or affect the definition of the term "unit" under Title IV of the FCAA.

(d) Parts and activities cannot be grouped for determining emissions increases from an emissions unit under OAR 340-224-0050 through 340-224-0070, or 340 division 210, or for determining the applicability of any New Source Performance Standard (NSPS).

(48) "EPA" or "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.

(49) "Equivalent method" means any method of sampling and analyzing for an air pollutant that has been demonstrated to the Department's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions. An equivalent method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to the Department.

(50) "Event" means excess emissions that arise from the same condition and occur during a single calendar day or continue into subsequent calendar days.

(51) "Exceedance" means a condition that is detected by monitoring that provides data in terms of an emission limitation or standard and that indicates that emissions (or opacity) are greater than the applicable emission limitation or standard (or less than the applicable standard in the case of a percent reduction requirement) consistent with any averaging period specified for averaging the results of the monitoring.

(52) "Excess emissions" means emissions in excess of a permit limit or any applicable air quality rule.

(53) "Excursion" means a departure from an indicator range established for monitoring under OAR 340-212-0200 through 340-212-0280 and 340-218-0050(3)(a), consistent with any averaging period specified for averaging the results of the monitoring.

(54) "Federal Land Manager" means with respect to any lands in the United States, the Secretary of the federal department with authority over such lands.

(55) "Federal Major Source" means a source with potential to emit any individual regulated pollutant, excluding hazardous air pollutants listed in OAR 340 division 244, greater than or equal to 100 tons per year if in a source category listed below, or 250 tons per year if not in a source category listed. In addition, for greenhouse gases, a federal major source must also have the potential to emit CO<sub>2</sub>e greater than or equal to 100,000 tons per year. The fugitive emissions and insignificant activity emissions of a stationary source are considered in determining whether it is a federal major source. Potential to emit calculations must include emission increases due to a new or modified source and may include emission decreases.

(a) Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input;

(b) Coal cleaning plants with thermal dryers;

(c) Kraft pulp mills;

(d) Portland cement plants;

(e) Primary Zinc Smelters;

(f) Iron and Steel Mill Plants;

(g) Primary aluminum ore reduction plants;

(h) Primary copper smelters;

(i) Municipal Incinerators capable of charging more than 50 tons of refuse per day;

(j) Hydrofluoric acid plants;

(k) Sulfuric acid plants;

(l) Nitric acid plants;

(m) Petroleum Refineries;

(n) Lime plants;

(o) Phosphate rock processing plants;

(p) Coke oven batteries;

(q) Sulfur recovery plants;

(r) Carbon black plants, furnace process;

(s) Primary lead smelters;

(t) Fuel conversion plants;

(u) Sintering plants;

(v) Secondary metal production plants;

(w) Chemical process plants;

(x) Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;

(y) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(z) Taconite ore processing plants;

(aa) Glass fiber processing plants;

(bb) Charcoal production plants.

(56) "Final permit" means the version of an Oregon Title V Operating Permit issued by the Department or Lane Regional Air Protection Agency that has completed all review procedures required by OAR 340-218-0120 through 340-218-0240.

(57) "Fugitive Emissions":

(a) Except as used in subsection (b) of this section, means emissions of any air contaminant which escape to the atmosphere from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening.

(b) As used to define a major Oregon Title V Operating Permit program source, means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(58) "General permit":

(a) Except as provided in subsection (b) of this section, means an Oregon Air Contaminant Discharge Permit established under OAR 340-216-0060;

(b) As used in OAR 340 division 218 means an Oregon Title V Operating Permit established under OAR 340-218-0090.

(59) "Generic PSEL" means the levels for the pollutants listed in Table 5.

**NOTE:** Sources are eligible for a generic PSEL if expected emissions are less than or equal to the levels listed in Table 5. Baseline emission rate and netting basis do not apply to pollutants at sources using generic PSELS.

(60)(a) "Greenhouse Gases" or "GHGs" means the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Each gas is also individually a greenhouse gas.

(b) The definition of greenhouse gases in subsection (a) of this section does not include, for purposes of division 216, 218, and 224, carbon dioxide emissions from the combustion or decomposition of biomass except to the extent required by federal law.

(61) "Growth Allowance" means an allocation of some part of an airshed's capacity to accommodate future proposed major sources and major modifications of sources.

(62) "Immediately" means as soon as possible but in no case more than one hour after a source knew or should have known of an excess emission period.

(63) "Inherent process equipment" means equipment that is necessary for the proper or safe functioning of the process, or material recovery equipment that the owner or operator documents is installed and operated primarily for purposes other than compliance with air pollution regulations. Equipment that must be operated at an efficiency higher than that achieved during normal process operations in order to comply with the applicable emission limitation or standard is not inherent process equipment. For the

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purposes of OAR 340-212-0200 through 340-212-0280, inherent process equipment is not considered a control device.

(64) "Insignificant Activity" means an activity or emission that the Department has designated as categorically insignificant, or that meets the criteria of aggregate insignificant emissions.

(65) "Insignificant Change" means an off-permit change defined under OAR 340-218-0140(2)(a) to either a significant or an insignificant activity which:

(a) Does not result in a re-designation from an insignificant to a significant activity;

(b) Does not invoke an applicable requirement not included in the permit; and

(c) Does not result in emission of regulated air pollutants not regulated by the source's permit.

(66) "Late Payment" means a fee payment which is postmarked after the due date.

(67) "Lowest Achievable Emission Rate" or "LAER" means that rate of emissions which reflects: the most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. The application of this term cannot permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable New Source Performance Standards (NSPS) or standards for hazardous air pollutants.

(68) "Maintenance Area" means a geographical area of the State that was designated as a nonattainment area, redesignated as an attainment area by EPA, and redesignated as a maintenance area by the Environmental Quality Commission in OAR 340, division 204.

(69) "Maintenance Pollutant" means a pollutant for which a maintenance area was formerly designated a nonattainment area.

(70) "Major Modification" means any physical change or change in the method of operation of a source that results in satisfying the requirements of both subsections (a) and (b) of this section, or of subsection (c) of this section for any regulated air pollutant. Major modifications for ozone precursors or PM<sub>2.5</sub> precursors also constitute major modifications for ozone and PM<sub>2.5</sub>, respectively.

(a) Except as provided in subsection (d) of this section, a PSEL that exceeds the netting basis by an amount that is equal to or greater than the significant emission rate.

(b) The accumulation of emission increases due to physical changes and changes in the method of operation as determined in accordance with paragraphs (A) and (B) of this subsection is equal to or greater than the significant emission rate.

(A) Calculations of emission increases in subsection (b) of this section must account for all accumulated increases in actual emissions due to physical changes and changes in the method of operation occurring at the source since the applicable baseline period, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations in OAR 340 division 224 for that pollutant, whichever time is more recent. These include fugitive emissions and emissions from insignificant activities.

(B) Emission increases due solely to increased use of equipment or facilities that existed or were permitted or approved to construct in accordance with OAR 340 division 210 during the applicable baseline period are not included, except if the increased use is to support a physical change or change in the method of operation.

(c) Any change at a source, including production increases, that would result in a Plant Site Emission Limit increase of 1 ton or more for any regulated pollutant for which the source is a major source in nonattainment or maintenance areas or a federal major source in attainment or unclassified areas, if the source obtained permits to construct and operate after the applicable baseline period but has not undergone New Source Review.

(A) Subsection (c) of this section does not apply to PM<sub>2.5</sub> and greenhouse gases.

(B) Changes to the PSEL solely due to the availability of better emissions information are exempt from being considered an increase.

(d) If a portion of the netting basis or PSEL (or both) was set based on PTE because the source had not begun normal operations but was permitted or approved to construct and operate, that portion of the netting basis or PSEL (or both) must be excluded from the tests in subsections (a) and (b) of this section until the netting basis is reset as specified in the definitions of baseline emission rate and netting basis.

(e) The following are not considered major modifications:

(A) Except as provided in subsection (c) of this section, proposed increases in hours of operation or production rates that would cause emission increases above the levels allowed in a permit and would not involve a physical change or change in method of operation in the source;

(B) Routine maintenance, repair, and replacement of components;

(C) Temporary equipment installed for maintenance of the permanent equipment if the temporary equipment is in place for less than six months and operated within the permanent equipment's existing PSEL;

(D) Use of alternate fuel or raw materials, that were available and the source was capable of accommodating in the baseline period.

(71) "Major Source":

(a) Except as provided in subsection (b) of this section, means a source that emits, or has the potential to emit, any regulated air pollutant at a Significant Emission Rate. The fugitive emissions and insignificant activity emissions of a stationary source are considered in determining whether it is a major source. Potential to emit calculations must include emission increases due to a new or modified source and may include emission decreases.

(b) As used in OAR 340 division 210, Stationary Source Notification Requirements, OAR 340 division 218, rules applicable to sources required to have Oregon Title V Operating Permits, OAR 340 division 220, Oregon Title V Operating Permit Fees, and 340-216-0066 Standard ACDPs, means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping or supporting the major industrial group and that is described in paragraphs (A), (B), (C) or (D) of this subsection. For the purposes of this subsection, a stationary source or group of stationary sources is considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987) or support the major industrial group.

(A) A major source of hazardous air pollutants, which means:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutants that has been listed pursuant to OAR 340-244-0040; 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Emissions from any oil or gas exploration or production well, along with its associated equipment, and emissions from any pipeline compressor or pump station will not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" will have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit 100 tpy or more of any regulated air pollutant, except greenhouse gases, including any major source of fugitive emissions of any such pollutant. The fugitive emissions of a stationary source are not considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:

(i) Coal cleaning plants (with thermal dryers);

(ii) Kraft pulp mills;

(iii) Portland cement plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum ore reduction plants;

(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than 50 tons of refuse per day;

(ix) Hydrofluoric, sulfuric, or nitric acid plants;

(x) Petroleum refineries;

(xi) Lime plants;

(xii) Phosphate rock processing plants;

(xiii) Coke oven batteries;

(xiv) Sulfur recovery plants;

(xv) Carbon black plants (furnace process);

(xvi) Primary lead smelters;



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- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (xxvii) Any other stationary source category, that as of August 7, 1980 is being regulated under section 111 or 112 of the Act.

(C) Beginning July 1, 2011, a major stationary source of air pollutants, as defined by Section 302 of the Act, that directly emits or has the potential to emit 100 tpy or more of greenhouse gases and directly emits or has the potential to emit 100,000 tpy or more CO<sub>2e</sub>, including fugitive emissions.

(D) A major stationary source as defined in part D of Title I of the Act, including:

(i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of VOCs or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph of this subsection to 100, 50, 25, and 10 tpy of nitrogen oxides do not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;

(ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of VOCs;

(iii) For carbon monoxide nonattainment areas:

(I) That are classified as "serious"; and

(II) In which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide.

(iv) For particulate matter (PM<sub>10</sub>) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM<sub>10</sub>.

(72) "Material Balance" means a procedure for determining emissions based on the difference in the amount of material added to a process and the amount consumed and/or recovered from a process.

(73) "Modification," except as used in the term "major modification," means any physical change to, or change in the method of operation of, a stationary source that results in an increase in the stationary source's potential to emit any regulated air pollutant on an hourly basis. Modifications do not include the following:

(a) Increases in hours of operation or production rates that do not involve a physical change or change in the method of operation;

(b) Changes in the method of operation due to using an alternative fuel or raw material that the stationary source was physically capable of accommodating during the baseline period; and

(c) Routine maintenance, repair and like-for-like replacement of components unless they increase the expected life of the stationary source by using component upgrades that would not otherwise be necessary for the stationary source to function.

(74) "Monitoring" means any form of collecting data on a routine basis to determine or otherwise assess compliance with emission limitations or standards. Monitoring may include record keeping if the records are used to determine or assess compliance with an emission limitation or standard (such as records of raw material content and usage, or records documenting compliance with work practice requirements). Monitoring may include conducting compliance method tests, such as the procedures in appendix A to 40 CFR part 60, on a routine periodic basis. Requirements to conduct such tests on a one-time basis, or at such times as a regulatory authority may require on a non-regular basis, are not considered monitoring requirements for purposes of this definition. Monitoring may include one or more than one of the following data collection techniques as appropriate for a particular circumstance:

(a) Continuous emission or opacity monitoring systems.

(b) Continuous process, capture system, control device or other relevant parameter monitoring systems or procedures, including a predictive emission monitoring system.

(c) Emission estimation and calculation procedures (e.g., mass balance or stoichiometric calculations).

(d) Maintaining and analyzing records of fuel or raw materials usage.

(e) Recording results of a program or protocol to conduct specific operation and maintenance procedures.

(f) Verifying emissions, process parameters, capture system parameters, or control device parameters using portable or in situ measurement devices.

(g) Visible emission observations and recording.

(h) Any other form of measuring, recording, or verifying on a routine basis emissions, process parameters, capture system parameters, control device parameters or other factors relevant to assessing compliance with emission limitations or standards.

(75) "Netting Basis" means the baseline emission rate MINUS any emission reductions required by rule, orders, or permit conditions required by the SIP or used to avoid SIP requirements, MINUS any unassigned emissions that are reduced from allowable under OAR 340-222-0045, MINUS any emission reduction credits transferred off site, PLUS any emission increases approved through the New Source Review regulations in OAR 340 division 224 MINUS any emissions reductions required by subsection (g) of this section.

(a) A netting basis will only be established for regulated pollutants subject to OAR 340 division 224 as specified in the definition of regulated pollutant.

(b) The initial PM<sub>2.5</sub> netting basis and PSEL for a source that was permitted prior to May 1, 2011 will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.

(A) The initial netting basis is the PM<sub>2.5</sub> fraction of the PM<sub>10</sub> netting basis in effect on May 1, 2011. DEQ may increase the initial PM<sub>2.5</sub> netting basis by up to 5 tons if necessary to avoid exceedance of the PM<sub>2.5</sub> significant emission rate as of May 1, 2011.

(B) Notwithstanding OAR 340-222-0041(2), the initial source specific PSEL for a source with PTE greater than or equal to the SER will be set equal to the PM<sub>2.5</sub> fraction of the PM<sub>10</sub> PSEL.

(c) The initial greenhouse gas netting basis and PSEL for a source will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.

(d) Netting basis is zero for:

(A) Any regulated pollutant emitted from a source that first obtained permits to construct and operate after the applicable baseline period for that regulated pollutant, and has not undergone New Source Review for that pollutant;

(B) Any pollutant that has a generic PSEL in a permit;

(C) Any source permitted as portable; or

(D) Any source with a netting basis calculation resulting in a negative number.

(e) If a source relocates to an adjacent site, and the time between operation at the old and new sites is less than six months, the source may retain the netting basis from the old site.

(f) Emission reductions required by rule, order, or permit condition affect the netting basis if the source currently has devices or emissions units that are subject to the rules, order, or permit condition. The baseline emission rate is not affected. The netting basis reduction will be effective on the effective date of the rule, order, or permit condition requiring the reduction. The PSEL reduction will be effective on the compliance date of the rule, order, or permit condition.

(g) For permits issued after May 1, 2011 under New Source Review regulations in OAR 340 division 224, and where the netting basis initially equaled the potential to emit for a new or modified source, the netting basis will be reduced in accordance with the definition of actual emissions. Notwithstanding OAR 340-222-0041(2), this adjustment does not require a reduction in the PSEL.

(h) Emission reductions required by rule do not include emissions reductions achieved under OAR 340-226-0110 and 0120.

(i) Netting basis for a pollutant with a revised definition will be adjusted if the source is emitting the pollutant at the time of redefining and the pollutant is included in the permit's netting basis.

(j) Where EPA requires an attainment demonstration based on dispersion modeling, the netting basis will be established at no more than the level used in the dispersion modeling to demonstrate attainment with the ambient air quality standard (i.e., the attainment demonstration is an emission reduction required by rule).

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(76) "Nitrogen Oxides" or "NOx" means all oxides of nitrogen except nitrous oxide.

(77) "Nonattainment Area" means a geographical area of the State, as designated by the Environmental Quality Commission or the EPA, that exceeds any state or federal primary or secondary ambient air quality standard.

(78) "Nonattainment Pollutant" means a pollutant for which an area is designated a nonattainment area.

(79) "Normal Source Operation" means operations which do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.

(80) "Offset" means an equivalent or greater emission reduction that is required before allowing an emission increase from a proposed major source or major modification of an existing source.

(81) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background as measured in accordance with OAR 340-212-0120 and 212-0140. Unless otherwise specified by rule, opacity shall be measured in accordance with EPA Method 9 or a continuous opacity monitoring system (COMS) installed and operated in accordance with the Department's Continuous Monitoring Manual. For all standards, the minimum observation period shall be six minutes, though longer periods may be required by a specific rule or permit condition. Aggregate times (e.g. 3 minutes in any one hour) consist of the total duration of all readings during the observation period that equal or exceed the opacity percentage in the standard, whether or not the readings are consecutive.

(82) "Oregon Title V Operating Permit" means any permit covering an Oregon Title V Operating Permit source that is issued, renewed, amended, or revised pursuant to division 218.

(83) "Oregon Title V Operating Permit program" means a program approved by the Administrator under 40 CFR Part 70.

(84) "Oregon Title V Operating Permit program source" means any source subject to the permitting requirements, OAR 340 division 218.

(85) "Ozone Precursor" means nitrogen oxides and volatile organic compounds as measured by an applicable reference method in accordance with the Department's Source Sampling Manual (January, 1992) or as measured by an EPA reference method in 40 CFR Part 60, appendix A or as measured by a material balance calculation for VOC as appropriate.

(86) "Ozone Season" means the contiguous 3 month period during which ozone exceedances typically occur (i.e., June, July, and August).

(87) "Particulate Matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air. When used in emission standards, particulate matter is defined by the method specified within the standard or by an applicable reference method in accordance with OAR 340-212-0120 and 340-212-0140. Unless otherwise specified, sources with exhaust gases at or near ambient conditions may be tested with DEQ Method 5 or DEQ Method 8, as approved by the Department. Direct heat transfer sources shall be tested with DEQ Method 7; indirect heat transfer combustion sources and all other non-fugitive emissions sources not listed above shall be tested with DEQ Method 5.

(88) "Permit" means an Air Contaminant Discharge Permit or an Oregon Title V Operating Permit.

(89) "Permit modification" means a permit revision that meets the applicable requirements of OAR 340 division 216, 340 division 224, or 340-218-0160 through 340-218-0180.

(90) "Permit revision" means any permit modification or administrative permit amendment.

(91) "Permitted Emissions" as used in OAR division 220 means each regulated pollutant portion of the PSEL, as identified in an ACDP, Oregon Title V Operating Permit, review report, or by the Department pursuant to OAR 340-220-0090.

(92) "Permittee" means the owner or operator of the facility, authorized by the ACDP or the Oregon Title V Operating Permit to operate the source.

(93) "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the State of Oregon and any agencies thereof, and the federal government and any agencies thereof.

(94) "Plant Site Emission Limit" or "PSEL" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source. The PSEL for a major source may consist of more than one permitted emission.

(95) "PM10":

(a) When used in the context of emissions, means finely divided solid or liquid material, including condensable particulate, other than uncom-

bined water, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by an applicable reference method in accordance with the Department's Source Sampling Manual (January, 1992);

(b) When used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured in accordance with 40 CFR Part 50, Appendix J.

(96) "PM2.5":

(a) When used in the context of direct PM2.5 emissions, means finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, emitted to the ambient air as measured by EPA reference methods 201A and 202 in 40 CFR Part 51, appendix M.

(b) When used in the context of PM2.5 precursor emissions, means sulfur dioxide (SO2) and nitrogen oxides (NOx) emitted to the ambient air as measured by EPA reference methods in 40 CFR Part 60, appendix A.

(c) When used in the context of ambient concentration, means particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR Part 50, Appendix L, or an equivalent method designated in accordance with 40 CFR Part 53.

(97) "PM2.5 fraction" means the fraction of PM2.5 to PM10 for each emissions unit that is included in the netting basis and PSEL.

(98) "Pollutant-specific emissions unit" means an emissions unit considered separately with respect to each regulated air pollutant.

(99) "Potential to emit" or "PTE" means the lesser of:

(a) The capacity of a stationary source; or

(b) The maximum allowable emissions taking into consideration any physical or operational limitation, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, if the limitation is enforceable by the Administrator.

(c) This definition does not alter or affect the use of this term for any other purposes under the Act or the term "capacity factor" as used in Title IV of the Act and the regulations promulgated thereunder. Secondary emissions are not considered in determining the potential to emit.

(100) "Predictive emission monitoring system (PEMS)" means a system that uses process and other parameters as inputs to a computer program or other data reduction system to produce values in terms of the applicable emission limitation or standard.

(101) "Process Upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner.

(102) "Proposed permit" means the version of an Oregon Title V Operating Permit that the Department or a Regional Agency proposes to issue and forwards to the Administrator for review in compliance with OAR 340-218-0230.

(103) "Reference method" means any method of sampling and analyzing for an air pollutant as specified in 40 CFR Part 52, 60, 61 or 63.

(104) "Regional Agency" means Lane Regional Air Protection Agency.

(105) "Regulated air pollutant" or "Regulated Pollutant":

(a) Except as provided in subsections (b) and (c) of this section, means:

(A) Nitrogen oxides or any VOCs;

(B) Any pollutant for which a national ambient air quality standard has been promulgated, including any precursors to such pollutants;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(D) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act;

(E) Any pollutant listed under OAR 340-244-0040 or 340-244-0230; and

(F) Greenhouse Gases.

(b) As used in OAR 340 division 220, regulated pollutant means particulates, volatile organic compounds, oxides of nitrogen and sulfur dioxide.

(c) As used in OAR 340 division 224, regulated pollutant does not include any pollutant listed in divisions 244 and 246, unless the pollutant is listed in OAR 340 division 200 Table 2 (significant emission rates).

(106) "Renewal" means the process by which a permit is reissued at the end of its term.

(107) "Responsible official" means one of the following:

(a) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any

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other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(A) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(B) The delegation of authority to such representative is approved in advance by the Department or Lane Regional Air Protection Agency.

(b) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(c) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this division, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of the EPA); or

(d) For affected sources:

(A) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated there under are concerned; and

(B) The designated representative for any other purposes under the Oregon Title V Operating Permit program.

(108) "Secondary Emissions" means emissions that are a result of the construction and/or operation of a source or modification, but that do not come from the source itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:

(a) Emissions from ships and trains coming to or from a facility;

(b) Emissions from off-site support facilities that would be constructed or would otherwise increase emissions as a result of the construction or modification of a source.

(109) "Section 111" means section 111 of the FCAA which includes Standards of Performance for New Stationary Sources (NSPS).

(110) "Section 111(d)" means subsection 111(d) of the FCAA which requires states to submit to the EPA plans that establish standards of performance for existing sources and provides for implementing and enforcing such standards.

(111) "Section 112" means section 112 of the FCAA which contains regulations for Hazardous Air Pollutants (HAP).

(112) "Section 112(b)" means subsection 112(b) of the FCAA which includes the list of hazardous air pollutants to be regulated.

(113) "Section 112(d)" means subsection 112(d) of the FCAA which directs the EPA to establish emission standards for sources of hazardous air pollutants. This section also defines the criteria to be used by the EPA when establishing the emission standards.

(114) "Section 112(e)" means subsection 112(e) of the FCAA which directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit hazardous air pollutants.

(115) "Section 112(r)(7)" means subsection 112(r)(7) of the FCAA which requires the EPA to promulgate regulations for the prevention of accidental releases and requires owners or operators to prepare risk management plans.

(116) "Section 114(a)(3)" means subsection 114(a)(3) of the FCAA which requires enhanced monitoring and submission of compliance certifications for major sources.

(117) "Section 129" means section 129 of the FCAA which requires the EPA to establish emission standards and other requirements for solid waste incineration units.

(118) "Section 129(e)" means subsection 129(e) of the FCAA which requires solid waste incineration units to obtain Oregon Title V Operating Permits.

(119) "Section 182(f)" means subsection 182(f) of the FCAA which requires states to include plan provisions in the State Implementation Plan for NO<sub>x</sub> in ozone nonattainment areas.

(120) "Section 182(f)(1)" means subsection 182(f)(1) of the FCAA which requires states to apply those plan provisions developed for major VOC sources and major NO<sub>x</sub> sources in ozone nonattainment areas.

(121) "Section 183(e)" means subsection 183(e) of the FCAA which requires the EPA to study and develop regulations for the control of certain VOC sources under federal ozone measures.

(122) "Section 183(f)" means subsection 182(f) of the FCAA which requires the EPA to develop regulations pertaining to tank vessels under federal ozone measures.

(123) "Section 184" means section 184 of the FCAA which contains regulations for the control of interstate ozone air pollution.

(124) "Section 302" means section 302 of the FCAA which contains definitions for general and administrative purposes in the Act.

(125) "Section 302(j)" means subsection 302(j) of the FCAA which contains definitions of "major stationary source" and "major emitting facility."

(126) "Section 328" means section 328 of the FCAA which contains regulations for air pollution from outer continental shelf activities.

(127) "Section 408(a)" means subsection 408(a) of the FCAA which contains regulations for the Title IV permit program.

(128) "Section 502(b)(10) change" means a change which contravenes an express permit term but is not a change that:

(a) Would violate applicable requirements;

(b) Would contravene federally enforceable permit terms and conditions that are monitoring, recordkeeping, reporting, or compliance certification requirements; or

(c) Is a Title I modification.

(129) "Section 504(b)" means subsection 504(b) of the FCAA which states that the EPA can prescribe by rule procedures and methods for determining compliance and for monitoring.

(130) "Section 504(e)" means subsection 504(e) of the FCAA which contains regulations for permit requirements for temporary sources.

(131) "Significant Air Quality Impact" means an additional ambient air quality concentration equal to or greater than in the concentrations listed in Table 1. The threshold concentrations listed in Table 1 are used for comparison against the ambient air quality standard and do not apply for protecting PSD Class I increments or air quality related values (including visibility). For sources of VOC or NO<sub>x</sub>, a major source or major modification has a significant impact if it is located within the Ozone Precursor Distance defined in OAR 340-225-0020.

(132) "Significant Emission Rate" or "SER," except as provided in subsections (a) through (c) of this section, means an emission rate equal to or greater than the rates specified in Table 2.

(a) For the Medford-Ashland Air Quality Maintenance Area, the Significant Emission Rate for PM<sub>10</sub> is defined in Table 3.

(b) For regulated air pollutants not listed in Table 2 or 3, the significant emission rate is zero unless the Department determines the rate that constitutes a significant emission rate.

(c) Any new source or modification with an emissions increase less than the rates specified in Table 2 or 3 associated with a new source or modification which would construct within 10 kilometers of a Class I area, and would have an impact on such area equal to or greater than 1 ug/m<sup>3</sup> (24 hour average) is emitting at a significant emission rate. This provision does not apply to greenhouse gas emissions.

(133) "Significant Impairment" occurs when the Department determines that visibility impairment interferes with the management, protection, preservation, or enjoyment of the visual experience within a Class I area. The Department will make this determination on a case-by-case basis after considering the recommendations of the Federal Land Manager and the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered along with visitor use of the Class I areas, and the frequency and occurrence of natural conditions that reduce visibility.

(134) "Small scale local energy project" means:

(a) A system, mechanism or series of mechanisms located primarily in Oregon that directly or indirectly uses or enables the use of, by the owner or operator, renewable resources including, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to produce energy, including heat, electricity and substitute fuels, to meet a local community or regional energy need in this state;

(b) A system, mechanism or series of mechanisms located primarily in Oregon or providing substantial benefits to Oregon that directly or indirectly conserves energy or enables the conservation of energy by the owner or operator, including energy used in transportation;

(c) A recycling project;

(d) An alternative fuel project;

(e) An improvement that increases the production or efficiency, or extends the operating life, of a system, mechanism, series of mechanisms or project otherwise described in this section of this rule, including but not limited to restarting a dormant project;

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(f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility that directly or indirectly reduces the amount of energy needed for the construction and operation of the facility and that meets the sustainable building practices standard established by the State Department of Energy by rule; or

(g) A project described in subsections (a) to (f) of this section, whether or not the existing project was originally financed under ORS 470, together with any refinancing necessary to remove prior liens or encumbrances against the existing project.

(h) A project described in subsections (a) to (g) of this section that conserves energy or produces energy by generation or by processing or collection of a renewable resource.

(135) "Source" means any building, structure, facility, installation or combination thereof that emits or is capable of emitting air contaminants to the atmosphere, is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control. The term includes all pollutant emitting activities that belong to a single major industrial group (i.e., that have the same two-digit code) as described in the Standard Industrial Classification Manual, (U.S. Office of Management and Budget, 1987) or that support the major industrial group.

(136) "Source category":

(a) Except as provided in subsection(b) of this section, means all the pollutant emitting activities that belong to the same industrial grouping(i.e., that have the same two-digit code) as described in the Standard Industrial Classification Manual, (U.S. Office of Management and Budget, 1987).

(b) As used in OAR 340 division 220, Oregon Title V Operating Permit Fees, means a group of major sources that the Department determines are using similar raw materials and have equivalent process controls and pollution control equipment.

(137) "Source Test" means the average of at least three test runs conducted in accordance with the Department's Source Sampling Manual.

(138) "Startup" and "shutdown" means that time during which an air contaminant source or emission-control equipment is brought into normal operation or normal operation is terminated, respectively.

(139) "State Implementation Plan" or "SIP" means the State of Oregon Clean Air Act Implementation Plan as adopted by the Commission under OAR 340-200-0040 and approved by EPA.

(140) "Stationary source" means any building, structure, facility, or installation at a source that emits or may emit any regulated air pollutant.

(141) "Substantial Underpayment" means the lesser of ten percent (10%) of the total interim emission fee for the major source or five hundred dollars.

(142) "Synthetic minor source" means a source that would be classified as a major source under OAR 340-200-0020, but for limits on its potential to emit air pollutants contained in a permit issued by the Department under OAR 340 division 216 or 218.

(143) "Title I modification" means one of the following modifications pursuant to Title I of the FCAA:

(a) A major modification subject to OAR 340-224-0050, Requirements for Sources in Nonattainment Areas;

(b) A major modification subject to OAR 340-224-0060, Requirements for Sources in Maintenance Areas;

(c) A major modification subject to OAR 340-224-0070, Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas;

(d) A modification that is subject to a New Source Performance Standard under Section 111 of the FCAA; or

(e) A modification under Section 112 of the FCAA.

(144) "Total Reduced Sulfur" or "TRS" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide(H<sub>2</sub>S).

(145) "Typically Achievable Control Technology" or "TACT" means the emission limit established on a case-by-case basis for a criteria pollutant from a particular emissions unit in accordance with OAR 340-226-0130. For existing sources, the emission limit established will be typical of the emission level achieved by emissions units similar in type and size. For new and modified sources, the emission limit established will be typical of the emission level achieved by well controlled new or modified emissions units similar in type and size that were recently installed. TACT determinations will be based on information known to the Department while considering pollution prevention, impacts on other environmental media, energy impacts, capital and operating costs, cost effectiveness, and the age and remaining economic life of existing emission control equipment. The Department may consider emission control technologies typically applied

to other types of emissions units where such technologies could be readily applied to the emissions unit. If an emission limitation is not feasible, a design, equipment, work practice, operational standard, or combination thereof, may be required.

(146) "Unassigned Emissions" means the amount of emissions that are in excess of the PSEL but less than the Netting Basis.

(147) "Unavoidable" or "could not be avoided" means events that are not caused entirely or in part by poor or inadequate design, operation, maintenance, or any other preventable condition in either process or control equipment.

(148) "Upset" or "Breakdown" means any failure or malfunction of any pollution control equipment or operating equipment that may cause excess emissions.

(149) "Visibility Impairment" means any humanly perceptible change in visual range, contrast or coloration from that which existed under natural conditions. Natural conditions include fog, clouds, windblown dust, rain, sand, naturally ignited wildfires, and natural aerosols.

(150) "Volatile Organic Compounds" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.

(a) This includes any such organic compound except the following, which have been determined to have negligible photochemical reactivity in the formation of tropospheric ozone: methane; ethane; methylene chloride(dichloromethane); dimethyl carbonate, propylene carbonate, 1,1,1-trichloroethane(methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane(CFC-113); trichlorofluoromethane(CFC-11); dichlorodifluoromethane(CFC-12); chlorodifluoromethane(HCFC-22); trifluoromethane(HFC-23); 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane(CFC-115); 1,1,1-trifluoro 2,2-dichloroethane(HCFC-123); 1,1,1,2-tetrafluoroethane(HFC-134a); 1,1-dichloro 1-fluoroethane(HCFC-141b); 1-chloro 1,1-difluoroethane(HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane(HCFC-124); pentafluoroethane(HFC-125); 1,1,2,2-tetrafluoroethane(HFC-134); 1,1,1-trifluoroethane(HFC-143a); 1,1-difluoroethane (HFC-152a); perchlorobenzotrifluoride(PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene(tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane(HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane HFC 43-10mee); difluoromethane(HFC-32); ethylfluoride(HFC-161); 1,1,1,3,3,3-hexafluoropropane(HFC-236fa); 1,1,2,2,3-pentafluoropropane(HFC-245ca); 1,1,2,3,3-pentafluoropropane(HFC-245ea); 1,1,1,2,3-pentafluoropropane(HFC-245eb); 1,1,1,3,3-pentafluoropropane(HFC-245fa); 1,1,1,2,3,3-hexafluoropropane(HFC-236ea); 1,1,1,3,3-pentafluorobutane(HFC-365mf); chlorofluoromethane (HCFC-31); 1 chloro-1-fluoroethane(HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane(HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane(C4F9OCH<sub>3</sub> or HFE-7100); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane((CF<sub>3</sub>)<sub>2</sub>CFCF<sub>2</sub>OCH<sub>3</sub>); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane(C4F9OC<sub>2</sub>H<sub>5</sub> or HFE-7200); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane((CF<sub>3</sub>)<sub>2</sub>CFCF<sub>2</sub>O<sub>2</sub>C<sub>2</sub>H<sub>5</sub>); methyl acetate; 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane(n-C<sub>3</sub>F<sub>7</sub>OCH<sub>3</sub>, HFE-7000); 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane(HFE-7500); 1,1,1,2,3,3,3-heptafluoropropane(HFC 227ea); methyl formate (HCOOCH<sub>3</sub>); (1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane(HFE-7300); and perfluorocarbon compounds that fall into these classes:

(A) Cyclic, branched, or linear, completely fluorinated alkanes;

(B) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(C) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(D) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) For purposes of determining compliance with emissions limits, VOC will be measured by an applicable reference method in accordance with the Department's Source Sampling Manual, January, 1992. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and the Department approves the exclusion.

(c) The Department may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the Department's

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satisfaction, the amount of negligibly-reactive compounds in the source's emissions.

(d) The following compound(s) are VOC for purposes of all record-keeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and must be uniquely identified in emission reports, but are not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.

(151) "Year" means any consecutive 12 month period of time.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

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

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: [DEQ 15-1978, f. & ef. 10-13-78; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033.04; DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 14-1989, f. & cert. ef. 6-26-89; DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 2-1992, f. & cert. ef. 1-30-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0145, 340-020-0225, 340-020-0305, 340-020-0355, 340-020-0460 & 340-020-0520; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 21-1998, f. & cert. ef. 10-14-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0205, 340-028-0110; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 5-2010, f. & cert. ef. 5-21-10; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; Administrative correction 3-29-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-200-0025

### Abbreviations and Acronyms

- (1) "ACDP" means Air Contaminant Discharge Permit.
- (2) "ACT" means Federal Clean Air Act.
- (3) "AE" means Actual Emissions.
- (4) "AICPA" means Association of Independent Certified Public Accountants.
- (5) "AQCR" means Air Quality Control Region.
- (6) "AQMA" means Air Quality Maintenance Area.
- (7) "ASME" means American Society of Mechanical Engineers.
- (8) "ASTM" means American Society for Testing & Materials.
- (9) "ATETP" means Automotive Technician Emission Training Program.
- (10) "AWD" means all wheel drive.
- (11) "BACT" means Best Available Control Technology.
- (12) "BLS" means black liquor solids.
- (13) "CAA" means Clean Air Act
- (14) "CAR" means control area responsible party.
- (15) "CBD" means central business district.
- (16) "CCTMP" means Central City Transportation Management Plan.
- (17) "CEM" means continuous emissions monitoring.
- (18) "CEMS" means continuous emission monitoring system.
- (19) "CERCLA" means Comprehensive Environmental Response Compensation and Liability Act.
- (20) "CFRMS" means continuous flow rate monitoring system.
- (21) "CFR" means Code of Federal Regulations.
- (22) "CMS" means continuous monitoring system.
- (23) "CO" means carbon monoxide.
- (24) "CO<sub>2e</sub>" means carbon dioxide equivalent.
- (25) "COMS" means continuous opacity monitoring system.
- (26) "CPMS" means continuous parameter monitoring system.
- (27) "DEQ" means Department of Environmental Quality.
- (28) "DOD" means Department of Defense.
- (29) "EA" means environmental assessment.
- (30) "ECO" means employee commute options.
- (31) "EEAF" means emissions estimate adjustment factor.
- (32) "EF" means emission factor.
- (33) "EGR" means exhaust gas re-circulation.
- (34) "EIS" means Environmental Impact Statement
- (35) "EPA" means Environmental Protection Agency.
- (36) "EQC" means Environmental Quality Commission.
- (37) "ESP" means electrostatic precipitator.
- (38) "FCAA" means Federal Clean Air Act.
- (39) "FHWA" means Federal Highway Administration.
- (40) "FONSI" means finding of no significant impact.

- (41) "FTA" means Federal Transit Administration.
- (42) "GFA" means gross floor area.
- (43) "GHG" means greenhouse gases.
- (44) "GLA" means gross leasable area.
- (45) "GPM" means grams per mile.
- (46) "gr/dscf" means grains per dry standard cubic foot.
- (47) "GTBA" means grade tertiary butyl alcohol.
- (48) "GVWR" means gross vehicle weight rating.
- (49) "HAP" means hazardous air pollutant.
- (50) "HEPA" means high efficiency particulate air.
- (51) "HMIWI" means hospital medical infectious waste incinerator.
- (52) "IM" means inspection and maintenance program.
- (53) "IG" means inspection grade.
- (54) "IRS" means Internal Revenue Service.
- (55) "ISECP" means indirect source emission control program.
- (56) "ISTEA" means Intermodal Surface Transportation Efficiency

Act.

- (57) "LAER" means Lowest Achievable Emission Rate.
- (58) "LDT2" means light duty truck 2.
- (59) "LIDAR" means laser radar; light detection and ranging.
- (60) "LPG" means liquefied petroleum gas.
- (61) "LRAPA" means Lane Regional Air Protection Agency.
- (62) "LUCS" means Land Use Compatibility Statement.
- (63) "MACT" means Maximum Achievable Control Technology.
- (64) "MPO" means Metropolitan Planning Organization.
- (65) "MTBE" means methyl tertiary butyl ether.
- (66) "MWC" means municipal waste combustor.
- (67) "NAAQS" means National Ambient Air Quality Standards.
- (68) "NEPA" means National Environmental Policy Act.
- (69) "NESHAP" means National Emissions Standard for Hazardous Air Pollutants.
- (70) "NIOSH" means National Institute of Occupational Safety & Health.
- (71) "NO<sub>x</sub>" means nitrogen oxides.
- (72) "NSPS" means New Source Performance Standards.
- (73) "NSR" means New Source Review.
- (74) "NSSC" means neutral sulfite semi-chemical.
- (75) "O<sub>3</sub>" means ozone.
- (76) "OAR" means Oregon Administrative Rules.
- (77) "ODOT" means Oregon Department of Transportation.
- (78) "ORS" means Oregon Revised Statutes.
- (79) "OSAC" means orifice spark advance control.
- (80) "OSHA" means Occupational Safety & Health Administration.
- (81) "PCDE" means pollution control device collection efficiency.
- (82) "PEMS" means predictive emission monitoring system.
- (83) "PM" means particulate matter.
- (84) "PM<sub>10</sub>" means particulate matter less than 10 microns.
- (85) "PM<sub>2.5</sub>" means particulate matter less than 2.5 microns.
- (86) "POTW" means Publicly Owned Treatment Works.
- (87) "POV" means privately owned vehicle.
- (88) "PSD" means Prevention of Significant Deterioration.
- (89) "PSEL" means Plant Site Emission Limit.
- (90) "QIP" means quality improvement plan.
- (91) "RACT" means Reasonably Available Control Technology.
- (92) "RVCOG" means Rogue Valley Council of Governments.
- (93) "RWOC" means running weighted oxygen content.
- (94) "SKATS" means Salem-Kaiser Area Transportation Study.
- (95) "scf" means standard cubic feet.
- (96) "SCS" means speed control switch.
- (97) "SD" means standard deviation.
- (98) "SIP" means State Implementation Plan.
- (99) "SO<sub>2</sub>" means sulfur dioxide.
- (100) "SOCMI" means synthetic organic chemical manufacturing industry.
- (101) "SOS" means Secretary of State.
- (102) "TAC" means thermostatic air cleaner.
- (103) "TACT" means Typically Achievable Control Technology.
- (104) "TCM" means transportation control measures.
- (105) "TCS" means throttle control solenoid.
- (106) "TIP" means Transportation Improvement Program.
- (107) "TRS" means total reduced sulfur.
- (108) "TSP" means total suspended particulate matter.
- (109) "UGA" means urban growth area.
- (110) "UGB" means urban growth boundary.

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(1911) "US DOT" means United States Department of Transportation.

(112) "UST" means underground storage tanks.

(113) "UTM" means universal transverse mercator.

(114) "VIN" means vehicle identification number.

(115) "VMT" means vehicle miles traveled.

(116) "VOC" means volatile organic compounds.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 5-2010, f. & cert. ef. 5-21-10; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-200-0040

### State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by the Department of Environmental Quality and is adopted as the state implementation plan (SIP) of the State of Oregon pursuant to the federal Clean Air Act, 42 U.S.C.A 7401 to 7671g.

(2) Except as provided in section (3), revisions to the SIP will be made pursuant to the Commission's rulemaking procedures in division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the United States Environmental Protection Agency for approval. The State Implementation Plan was last modified by the Commission on April 21, 2011.

(3) Notwithstanding any other requirement contained in the SIP, the Department may:

(a) Submit to the Environmental Protection Agency any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after the Department has complied with the public hearings provisions of 40 CFR 51.102 (July 1, 2002); and

(b) Approve the standards submitted by a regional authority if the regional authority adopts verbatim any standard that the Commission has adopted, and submit the standards to EPA for approval as a SIP revision.

**NOTE:** Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the United States Environmental Protection Agency. If any provision of the federally approved Implementation Plan conflicts with any provision adopted by the Commission, the Department shall enforce the more stringent provision.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

Hist.: DEQ 35, f. 2-3-72, ef. 2-15-72; DEQ 54, f. 6-21-73, ef. 7-1-73; DEQ 19-1979, f. & ef. 6-25-79; DEQ 21-1979, f. & ef. 7-2-79; DEQ 22-1980, f. & ef. 9-26-80; DEQ 11-1981, f. & ef. 3-26-81; DEQ 14-1982, f. & ef. 7-21-82; DEQ 21-1982, f. & ef. 10-27-82; DEQ 1-1983, f. & ef. 1-21-83; DEQ 6-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 25-1984, f. & ef. 11-27-84; DEQ 3-1985, f. & ef. 2-1-85; DEQ 12-1985, f. & ef. 9-30-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 10-1986, f. & ef. 5-9-86; DEQ 20-1986, f. & ef. 11-7-86; DEQ 21-1986, f. & ef. 11-7-86; DEQ 4-1987, f. & ef. 3-2-87; DEQ 5-1987, f. & ef. 3-2-87; DEQ 8-1987, f. & ef. 4-23-87; DEQ 21-1987, f. & ef. 12-16-87; DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88; DEQ 2-1991, f. & cert. ef. 2-14-91; DEQ 19-1991, f. & cert. ef. 11-13-91; DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ 21-1991, f. & cert. ef. 11-13-91; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 1-1992, f. & cert. ef. 2-4-92; DEQ 3-1992, f. & cert. ef. 2-4-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 19-1992, f. & cert. ef. 8-11-92; DEQ 20-1992, f. & cert. ef. 8-11-92; DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 26-1992, f. & cert. ef. 11-2-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 1-1994, f. & cert. ef. 1-3-94; DEQ 5-1994, f. & cert. ef. 3-21-94; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1994, f. & cert. ef. 11-2-94; DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 17-1995, f. & cert. ef. 7-12-95; DEQ 19-1995, f. & cert. ef. 9-1-95; DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95; DEQ 8-1996(Temp), f. & cert. ef. 6-3-96; DEQ 15-1996, f. & cert. ef. 8-14-96; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 23-1996, f. & cert. ef. 11-4-96; DEQ 24-1996, f. & cert. ef. 11-26-96; DEQ 10-1998, f. & cert. ef. 6-22-98; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 17-1998, f. & cert. ef. 9-23-98; DEQ 20-1998, f. & cert. ef. 10-12-98; DEQ 21-1998, f. & cert. ef. 10-12-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 5-1999, f. & cert. ef. 3-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047; DEQ 15-1999, f. & cert. ef. 10-22-99; DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01; DEQ 6-2000, f. & cert. ef. 5-22-00; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 13-2000, f. & cert. ef. 7-28-00; DEQ 16-2000, f. & cert. ef. 10-25-00; DEQ 17-2000, f. & cert. ef. 10-25-00; DEQ 20-2000, f. & cert. ef. 12-15-00; DEQ 21-2000, f. & cert. ef. 12-15-00; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 4-2001, f. & cert. ef. 3-27-01; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 16-2001, f. & cert. ef. 12-26-01; DEQ 17-2001, f. & cert. ef. 12-28-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 5-2002, f. & cert. ef. 5-3-02; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 5-2003, f. & cert. ef. 2-6-03; DEQ 14-2003, f. & cert. ef. 10-24-03; DEQ 19-2003, f. & cert. ef. 12-12-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 10-2004, f. & cert. ef. 12-15-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 7-2005, f. & cert. ef. 7-12-05; DEQ 9-2005, f. & cert. ef. 9-9-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 4-2007, f. & cert. ef. 6-28-07; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 5-2008, f. & cert. ef. 3-20-08; DEQ 11-2008, f. & cert. ef. 8-29-08; DEQ 12-2008, f. & cert. ef. 9-17-08; DEQ 14-2008, f. & cert. ef. 11-10-08; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 3-2009, f. & cert. ef. 6-30-09; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 2-2010, f. & cert. ef. 3-5-10; DEQ 5-2010, f. & cert. ef. 5-21-10; DEQ 14-2010, f. & cert. ef. 12-10-10; DEQ 1-2011, f. &

cert. ef. 2-24-11; DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-202-0010

### Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule applies to this division.

(1) "Ambient Air" means that portion of the atmosphere external to buildings, to which the general public has access.

(2) "Ambient Air Monitoring Site Criteria" means the general probe siting specifications as set forth in Appendix E of 40 CFR 58.

(3) "Approved Method" means an analytical method for measuring air contaminant concentrations described or referenced in 40 CFR 50 and Appendices. These methods are approved by the Department of Environmental Quality.

(4) "Baseline Concentration" means:

(a) Except as provided in subsection (c), the ambient concentration level for sulfur dioxide and PM10 that existed in an area during the calendar year 1978. Actual emission increases or decreases occurring before January 1, 1978 must be included in the baseline calculation, except that actual emission increases from any source or modification on which construction commenced after January 6, 1975 must not be included in the baseline calculation;

(b) The ambient concentration level for nitrogen oxides that existed in an area during the calendar year 1988.

(c) For the area of northeastern Oregon within the boundaries of the Umatilla, Wallowa-Whitman, Ochoco, and Malheur National Forests, the ambient concentration level for PM10 that existed during the calendar year 1993. The Department allows the use of a prior time period if the Department determines that it is more representative of normal emissions.

(d) For PM10 in the Medford-Ashland AQMA: the ambient PM10 concentration levels that existed during the year that EPA redesignates the AQMA to attainment for PM10.

(e) The ambient concentration level for PM2.5 that existed in an area during the calendar year 2007.

(f) If no ambient air quality data is available in an area, the baseline concentration may be estimated using modeling based on actual emissions for the years specified in subsections (a) through (e) of this section.

(5) "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(6) "Indian Reservation" means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(7) "Oregon Standard Method" means any method of sampling and analyzing for an air contaminant approved by the Department. Oregon standard methods are kept on file by the Department.

(8) "PPM" means parts per million by volume. It is a dimensionless unit of measurement for gases that expresses the ratio of the volume of one component gas to the volume of the entire sample mixture of gases.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 18-1979, f. & ef. 6-22-79; DEQ 25-1981, f. & ef. 9-8-81; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 19-1993, f. & cert. ef. 11-4-93, Renumbered from 340-031-0105; DEQ 17-1995, f. & cert. ef. 7-12-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-031-0005; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-202-0060

### Suspended Particulate Matter

Concentrations of the fraction of suspended particulate that is equal to or less than ten microns in aerodynamic diameter in ambient air as measured by an approved method must not exceed:

(1) 150 micrograms of PM10 per cubic meter of air as a 24-hour average concentration for any calendar day. This standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 micrograms per cubic meter as determined in accordance with **Appendix K of 40 CFR 50** is equal to or less than one at any site.

Concentrations of the fraction of suspended particulate that is equal to or less than 2.5 microns in aerodynamic diameter in ambient air as measured by an approved method must not exceed:

(2) 35 micrograms of PM2.5 per cubic meter of air as a 3-year average of annual 98th percentile 24-hour average values recorded at each monitoring site. This standard is attained when the 3-year average of annual 98th percentile 24-hour average concentrations is equal to or less than 35 micro-

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grams per cubic meter as determined in accordance with Appendix N of 40 CFR 50.

(3) 15 micrograms of PM<sub>2.5</sub> per cubic meter of air as a 3-year average of the annual arithmetic mean. This standard is attained when the annual arithmetic mean concentration is equal to or less than 15 micrograms per cubic meter as determined in accordance with **Appendix N of 40 CFR 50**.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-031-0015; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 5-2010, f. & cert. ef. 5-21-10; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-202-0210

### Ambient Air Increments

(1) This rule defines significant deterioration. In areas designated as Class I, II or III, emissions from new or modified sources must be limited such that increases in pollutant concentration over the baseline concentration must be limited to those set out in **Table 1**.

(2) For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 18-1979, f. & ef. 6-22-79; DEQ 8-1988, f. & cert. ef. 5-19-88 (corrected 9-30-88); DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 17-1995, f. & cert. ef. 7-12-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-031-0110; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; Administrative correction, 3-29-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-215-0060

### Greenhouse Gas Reporting Fees

(1) Any person required to register and report under OAR 340-215-0030(1)(a) must submit greenhouse gas reporting fees to the Department as specified in OAR 340-220-0050(4). The fees must be received by the Department within 30 days after the Department mails the fee invoice.

(2) Any person required to register and report under OAR 340-215-0030(1)(b)-(c) must submit greenhouse gas reporting fees to the Department as specified in OAR chapter 340, division 216, Table 2, Part 3. The fees must be received by the Department within 30 days after the Department mails the fee invoice.

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

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 12-2010, f. & cert. ef. 10-27-10; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-216-0020

### Applicability

This division applies to all sources referred to in Table 1. This division also applies to Oregon Title V Operating Permit program sources when an ACDP is required by OAR 340-218-0020 or 340-224-0010. Sources referred to in **Table 1** are subject to fees as set forth in **Table 2**.

(1) No person may construct, install, establish, develop or operate any air contaminant source which is referred to in Table 1 without first obtaining an Air Contaminant Discharge Permit (ACDP) from the Department or Regional Authority, unless otherwise deferred from the requirement to obtain an ACDP in subsection (1)(c) or (d) of this rule. No person may continue to operate an air contaminant source if the ACDP expires, or is terminated or revoked; except as provided in OAR 340-216-0082.

(a) For portable sources, a single permit may be issued for operating at any area of the state if the permit includes the requirements from both the Department and Regional Authorities.

(b) The Department or Regional Authority where the portable source's Corporate offices are located will be responsible for issuing the permit. If the corporate office of a portable source is located outside of the state, the Department will be responsible for issuing the permit.

(c) An air contaminant source required to obtain an ACDP or ACDP Attachment pursuant to a NESHAP or NSPS adopted by the Commission by rule is not required to submit an application for an ACDP or ACDP Attachment until four months after the effective date of the Commission's adoption of the NESHAP or NSPS, and is not required to obtain an ACDP or ACDP Attachment until six months after the Commission's adoption of the NESHAP or NSPS. In addition, the Department may defer the requirement to submit an application for, or to obtain an ACDP or ACDP Attachment, or both, for up to an additional twelve months.

(d) Gasoline dispensing facilities are not required to submit an application for an ACDP or ACDP Attachment until May 1, 2010 or obtain an

ACDP or ACDP attachment until June 1, 2010. The Department may defer the requirement to submit an application for, or to obtain an ACDP or ACDP Attachment, or both, for up to an additional six months.

(e) Deferrals of Oregon permitting requirements do not relieve an air contaminant source from the responsibility of complying with federal NESHAP or NSPS requirements.

(2) No person may construct, install, establish, or develop any source that will be subject to the Oregon Title V Operating Permit program without first obtaining an ACDP from the Department or Regional Authority.

(3) No person may modify any source that has been issued an ACDP without first complying with the requirements of OAR 340-210-0205 through 340-210-0250.

(4) No person may modify any source required to have an ACDP such that the source becomes subject to the Oregon Title V Operating Permit program without complying with the requirements of OAR 340-210-0205 through 340-210-0250.

(5) No person may increase emissions above the PSEL by more than the de minimis levels specified in OAR 340-200-0020 without first applying for and obtaining a modified ACDP.

(6) Subject to the requirements in this Division, the Lane Regional Air Protection Agency is designated by the Commission as the permitting agency to implement the Air Contaminant Discharge Permit program within its area of jurisdiction. The Regional Agency's program is subject to Department oversight. The requirements and procedures contained in this Division pertaining to the Air Contaminant Discharge Permit program shall be used by the Regional Agency to implement its permitting program until the Regional Agency adopts superseding rules which are at least as restrictive as state rules.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-211-0040.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 13-1981, f. 5-6-81, ef. 7-1-81; DEQ 11-1983, f. & ef. 5-31-83; DEQ 3-1986, f. & ef. 2-12-86; DEQ 12-1987, f. & ef. 6-15-87; DEQ 27-1991, f. & cert. ef. 11-29-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0155; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1994, f. & cert. ef. 10-4-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1720; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 7-2007, f. & cert. ef. 10-18-07; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 9-2009(Temp), f. 12-24-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; DEQ 12-2010, f. & cert. ef. 10-27-10; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-216-0025

### Types of Permits

#### (1) Construction ACDP:

(a) A Construction ACDP may be used for approval of Type 3 changes specified in OAR 340-210-0220 at a source subject to the ACDP permit requirements in this division.

(b) A Construction ACDP is required for Type 3 changes specified in OAR 340-210-0225 at sources subject to the Oregon Title V Operating Permit requirements.

(2) General ACDP. A General ACDP is for a category of sources for which individual permits are unnecessary in order to protect the environment. An owner or operator of a source may be assigned to a General ACDP if the Department has issued a General ACDP for the source category:

(a) The source meets the qualifications specified in the General ACDP;

(b) The Department determines that the source has not had ongoing, reoccurring, or serious compliance problems; and

(c) The Department determines that a General ACDP would appropriately regulate the source.

(3) Short Term Activity ACDP. A Short Term Activity ACDP is a letter permit that authorizes the activity and includes any conditions placed upon the method or methods of operation of the activity. The Department may issue a Short Term Activity ACDP for unexpected or emergency activities, operations, or emissions.

(4) Basic ACDP. A Basic ACDP is a permit that authorizes the regulated source to operate in conformance with the rules contained in OAR 340 divisions 200 to 268.

(a) Owners and operators of sources and activities listed in Table 1, Part A of OAR 340-216-0020 must at a minimum obtain a Basic ACDP.

(b) Any owner or operator of a source required to obtain a Basic ACDP may obtain either a Simple or Standard ACDP.

(5) Simple ACDP. A Simple ACDP is a permit that contains:

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(a) All relevant applicable requirements for source operation, including general ACDP conditions for incorporating generally applicable requirements;

(b) Generic PSELs for all pollutants emitted at more than the de minimis level in accordance with OAR 340 division 222;

(c) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and

(d) A permit duration not to exceed 5 years.

(6) Standard ACDP:

(a) A Standard ACDP is a permit that contains:

(A) All applicable requirements, including general ACDP conditions for incorporating generally applicable requirements;

(B) Source specific PSELs or Generic PSELs, whichever are applicable, as specified in OAR 340 division 222;

(C) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and

(D) A permit duration not to exceed 5 years.

(b) All owners and operators of sources and activities listed in Table 1, Part C of OAR 340-216-0020 must obtain a Standard ACDP.

(c) Owners or operators of sources and activities listed in Table 1, Part B of OAR 340-216-0020 which do not qualify for a General ACDP or Simple ACDP must obtain a Standard ACDP.

(d) Any owner or operator of a source not required to obtain a Standard ACDP may obtain a Standard ACDP.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-211-0040.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 13-1981, f. 5-6-81, ef. 7-1-81; DEQ 11-1983, f. & ef. 5-31-83; DEQ 3-1986, f. & ef. 2-12-86; DEQ 12-1987, f. & ef. 6-15-87; DEQ 27-1991, f. & cert. ef. 11-29-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0155; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1994, f. & cert. ef. 10-4-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1720; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-216-0040

### Application Requirements

(1) New Permits. Except for Short Term Activity ACDPs, any person required to obtain a new ACDP must provide the following general information, as applicable, using forms provided by the Department in addition to any other information required for a specific permit type:

(a) Identifying information, including the name of the company, the mailing address, the facility address, and the nature of business (Standard Industrial Classification (SIC) code);

(b) The name and phone number of a local person responsible for compliance with the permit;

(c) The name of a person authorized to receive requests for data and information;

(d) A description of the production processes and related flow chart;

(e) A plot plan showing the location and height of air contaminant sources. The plot plan must also indicate the nearest residential or commercial property;

(f) The type and quantity of fuels used;

(g) An estimate of the amount and type of each air contaminant emitted by the source in terms of hourly, daily, or monthly and yearly rates, showing calculation procedures;

(h) Any information on pollution prevention measures and cross-media impacts the applicant wants the Department to consider in determining applicable control requirements and evaluating compliance methods;

(i) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions;

(j) Where the operation or maintenance of air pollution control equipment and emission reduction processes can be adjusted or varied from the highest reasonable efficiency and effectiveness, information necessary for the Department to establish operational and maintenance requirements in accordance with OAR 340-226-0120(1) and (2);

(k) A Land Use Compatibility Statement signed by a local (city or county) planner either approving or disapproving construction or modification of the source, if required by the local planning agency; and

(l) Any other information requested by the Department.

(2) Renewal Permits. Except for Short Term Activity ACDPs, any person required to renew an existing permit must submit the information identified

in section (1) using forms provided by the Department, unless there are no significant changes to the permit. If there are significant changes, the applicant must provide the information identified in section (1) only for those changes. Where there are no significant changes to the permit, the applicant may use a streamlined permit renewal application process by providing the following information:

(a) Identifying information, including the name of the company, the mailing address, the facility address, and the nature of business (Standard Industrial Classification (SIC) code) using a form provided by the Department; and

(b) A marked up copy of the previous permit indicating minor changes along with an explanation for each requested change.

(3) Permit Modifications. For Simple and Standard ACDP modifications, the applicant must provide the information in section (1) relevant to the requested changes to the permit and a list of any new requirements applicable to those changes.

(4) Any owner or operator who fails to submit any relevant facts or who has submitted incorrect information in a permit application must, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.

(5) The department must receive the application at least 60 days before a permit or modified permit is needed.

(6) The application must be completed in full and signed by the applicant or the applicant's legally authorized representative.

(7) Two copies of the application are required, unless otherwise requested by the Department. At least one of the copies must be a paper copy, but the others may be in any other format, including electronic copies, upon approval by the Department.

(8) A copy of NSR permit applications and supplemental information must also be submitted directly to the EPA.

(9) The name of the applicant must be the legal name of the facility or the owner's agent or the lessee responsible for the operation and maintenance of the facility. The legal name must be registered with the Secretary of State Corporations Division.

(10) All applications must include the appropriate fees as specified in Table 2 of OAR 340-216-0020.

(11) Applications that are obviously incomplete, unsigned, improperly signed, or lacking the required exhibits or fees will be rejected by the Department and returned to the applicant for completion.

(12) Within 15 days after receiving the application, the Department will preliminarily review the application to determine the adequacy of the information submitted:

(a) If the Department determines that additional information is needed, the Department will promptly ask the applicant for the needed information. The application will not be considered complete for processing until the requested information is received. The application will be considered withdrawn if the applicant fails to submit the requested information within 90 days of the request;

(b) If, in the opinion of the Department, additional measures are necessary to gather facts regarding the application, the Department will notify the applicant that such measures will be instituted along with the timetable and procedures to be followed. The application will not be considered complete for processing until the necessary additional fact-finding measures are completed. When the information in the application is deemed adequate for processing, the Department will so notify the applicant.

(13) If at any time while processing the application, the Department determines that additional information is needed, the Department will promptly ask the applicant for the needed information. The application will not be considered complete for processing until the requested information is received. The application will be considered withdrawn if the applicant fails to submit the requested information within 90 days of the request.

(14) If, upon review of an application, the Department determines that a permit is not required, the Department will so notify the applicant in writing. Such notification is a final action by the Department on the application.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 42, f. 4-5-72, ef. 4-15-72; DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033; DEQ 20-1979, f. & ef. 6-29-79; DEQ 13-1988, f. & cert. ef. 6-17-88; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0175; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1770; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0020 & 340-014-0030; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11



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## 340-216-0052

### Construction ACDP

(1) Purpose. A Construction ACDP is a permit for approval of Type 3 construction or modification changes as specified in OAR 340-210-0220. The Construction ACDP includes requirements for the construction or modification of stationary sources or air pollution control equipment and does not by itself provide authorization to operate the new construction or modification. A new or modified Standard ACDP or Oregon Title V Operating Permit is required before operation of the new construction or modification. A Construction ACDP may be used for the following situations:

(a) For complex construction or modification projects that require an extended period of time to construct, the Construction ACDP may provide construction approval faster than issuance of a Standard ACDP or modified Standard ACDP because the operating requirements would not need to be included in the permit.

(b) For Oregon Title V Operating Permit sources, the Construction ACDP may include the requirements of OAR 340-218-0050 and follow the external review procedures in 340-218-0210 and 340-218-0230 so that the requirements may later be incorporated into the Oregon Title V Operating Permit by an administrative amendment. If the applicant elects to incorporate the Construction ACDP by administrative amendment, all of the application submittal, permit content, and permit issuance requirements of OAR 340 division 218 must be met for the Construction ACDP

(2) Application requirements. Any person requesting a Construction ACDP must:

(a) Submit an application in accordance with OAR 340-216-0040 and provide the information specified in 340-216-0040(1) as it relates to the proposed new construction or modification; and

(b) Provide a list of any applicable requirements related to the new construction or modification.

(3) Fees. Applicants for a Construction ACDP must pay the fees set forth in Table 2 of OAR 340-216-0020.

(4) Permit content. A Construction ACDP must include at least the following:

(a) A requirement that construction must commence within 18 months after the permit is issued;

(b) A requirement to construct in accordance with approved plans;

(c) A requirement to comply with all applicable requirements;

(d) Emission limits for affected stationary sources;

(e) Performance standards for affected stationary sources and air pollution control equipment;

(f) Performance test requirements;

(g) Monitoring requirements, if specialized equipment is required (e.g., continuous monitoring systems);

(h) Notification and reporting requirements (construction status reports, startup dates, source test plans, CEMS performance specification testing plans, etc.);

(i) General ACDP conditions for incorporating generally applicable requirements;

(j) A requirement to modify the operating permit before commencing operation of the new construction or modification;

(k) A permit expiration date of no more than 5 years; and

(l) Oregon Title V Permit requirements as specified in OAR 340-218-0050, if the applicant requests the external review procedures in OAR 340-218-0210 and 340-218-0230.

(5) Permit issuance procedures:

(a) A Construction ACDP requires public notice in accordance with OAR 340 division 209 for Category III permit actions.

(b) For sources subject to the Oregon Title V Operating Permit program, the applicant may ask for the external review procedures in OAR 340-218-0210 and 340-218-0230 in addition to the requirements of OAR 340 division 209 to allow the Construction ACDP to be incorporated into the Oregon Title V Operating Permit later by an administrative amendment provided the requirements of (1)(b) are met.

(c) Issuance of a modified Construction ACDP requires one of the following, as applicable:

(A) Non-technical modifications and non-NSR Basic and Simple technical modifications require public notice in accordance with OAR 340 division 209 for Category I permit actions.

(B) Non-NSR/PSD Moderate and Complex technical modifications require public notice in accordance with OAR 340 division 209 for Category II permit actions.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-216-0054

### Short Term Activity ACDPs

(1) Application requirements. Any person requesting a Short Term Activity ACDP must apply in writing, fully describing the emergency and the proposed activities, operations, and emissions. The application must include the fees specified in section (2) of this rule.

(2) Fees. Applicants for a Short Term Activity ACDP must pay the fees set forth in Table 2 of 340-216-0020.

(3) Permit content.

(a) This permit includes conditions that ensure adequate protection of property and preservation of public health, welfare, and resources.

(b) A Short Term Activity ACDP does not include a PSEL for any air contaminants discharged as a result of the permitted activity.

(c) A Short Term Activity ACDP automatically terminates 60 days from the date of issuance and may not be renewed.

(d) A Short Term Activity ACDPs will be properly conditioned to ensure adequate protection of property and preservation of public health, welfare and resources.

(4) Permit issuance procedures. A Short Term Activity ACDP requires public notice in accordance with OAR 340 division 209 for Category I permit actions.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 42, f. 4-5-72, ef. 4-15-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0050; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-216-0056

### Basic ACDPs

(1) Application requirements. Any person requesting a Basic ACDP must submit an application in accordance with OAR 340-216-0040 and provide the information specified in OAR 340-216-0040(1).

(2) Fees. Applicants for a new Basic ACDP must pay the fees set forth in Table 2 of 340-216-0020.

(3) Permit content:

(a) A Basic ACDP contains only the most significant and relevant rules applicable to the source;

(b) A Basic ACDP does not contain a PSEL;

(c) A Basic ACDP requires a simplified annual report be submitted to the Department; and

(d) A Basic ACDP may be issued for a period not to exceed ten years.

(4) Permit issuance procedures. A Basic ACDP requires public notice in accordance with OAR 340 division 209 for Category I permit actions.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-216-0060

### General Air Contaminant Discharge Permits

(1) Applicability.

(a) The Department may issue a General ACDP under the following circumstances:

(A) There are several sources that involve the same or substantially similar types of operations;

(B) All requirements applicable to the covered operations can be contained in a General ACDP;

(C) The emission limitations, monitoring, recordkeeping, reporting and other enforceable conditions are the same for all operations covered by the General ACDP; and

(D) The pollutants emitted are of the same type for all covered operations.

(b) Permit content. Each General ACDP must include the following:

(A) All relevant requirements for the operations covered by the General ACDP;

(B) Generic PSELs for all pollutants emitted at more than the de minimis level in accordance with OAR 340, division 222;

(C) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the PSEL and other applicable emissions limits and standards; and

(D) A permit expiration date not to exceed 10 years from the date of issuance.

(c) Permit issuance procedures: A new General ACDP requires public notice and opportunity for comment in accordance with OAR 340 division 209 for Category III permit actions. A reissued General ACDP or a modification to a General ACDP requires public notice and opportunity for com-

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ment in accordance with OAR 340 division 209 for Category II permit actions. All General ACDPs are on file and available for review at the Department's headquarters.

(2) Source assignment:

(a) Application requirements. Any person requesting that a source be assigned to a General ACDP must submit a written application in accordance with OAR 340-216-0040 that includes the information in OAR 340-216-0040(1), specifies the General ACDP source category, and shows that the source qualifies for the General ACDP.

(b) Fees. Applicants must pay the fees set forth in Table 2 of OAR 340-216-0020. The fee class for each General ACDP is as follows:

- (A) Hard chrome platers — Fee Class Three;
- (B) Decorative chrome platers — Fee Class Two;
- (C) Halogenated solvent degreasers — batch cold — Fee Class Two;
- (D) Halogenated solvent degreasers — batch vapor and in-line — Fee Class Two;
- (E) Halogenated solvent degreasers — batch cold, batch vapor, and in-line — Fee Class Two;
- (F) Perchloroethylene dry cleaners — Fee Class Six;
- (G) Asphalt plants — Fee Class Three;
- (H) Rock crushers — Fee Class Two;
- (I) Ready-mix concrete — Fee Class One;
- (J) Sawmills, planing mills, millwork, plywood manufacturing and veneer drying — Fee Class Three;
- (K) Boilers — Fee Class Two;
- (L) Crematories — Fee Class Two;
- (M) Grain elevators — Fee Class One;
- (N) Prepared feeds, flour, and cereal — Fee Class One;
- (O) Seed cleaning — Fee Class One;
- (P) Coffee roasters — Fee Class One;
- (Q) Bulk gasoline plants — Fee Class One;
- (R) Electric power generators — Fee Class Two;
- (S) Clay ceramics — Fee Class One;
- (T) Hospital sterilizers — Fee Class Four;
- (U) Secondary nonferrous metals — Fee Class One;
- (V) Gasoline dispensing facilities — stage I — Fee Class Five;
- (W) Gasoline dispensing facilities — stage II — Fee Class Four;
- (X) Wood preserving — Fee Class Four;
- (Y) Metal fabrication and finishing — with two or more of the following operations — Fee Class Two;

(i) Dry abrasive blasting performed in a vented enclosure or of objects greater than 8 feet (2.4 meters) in any one dimension that uses materials that contain MFHAP or has the potential to emit MFHAP;

(ii) Spray-applied painting operation using MFHAP containing paints;

(iii) Welding operation that uses materials that contain MFHAP or has the potential to emit MFHAP and uses 2,000 pounds or more per year of MFHAP containing welding wire and rod (calculated on a rolling 12-month basis);

(Z) Metal fabrication and finishing — with only one of the operations listed in subparagraphs (2)(b)(Y)(i) through (iii) of this rule — Fee Class One;

(AA) Metal fabrication and finishing — with none of the operations listed in subparagraphs (2)(b)(Y)(i) through (iii) of this rule — Fee Class Four;

- (BB) Plating and polishing — Fee Class One;
- (CC) Surface coating operations — Fee Class One;
- (DD) Paint stripping — Fee Class One;
- (EE) Aluminum, copper, and nonferrous foundries — Fee Class Two;
- (FF) Paints and allied products manufacturing — Fee Class Two;
- (GG) Any General ACDP not listed above — Fee Class One.

(c) Source assignment procedures:

(A) Assignment of a source to a General ACDP is a Category I permit action and is subject to the Category I public notice requirements in accordance with OAR 340, division 209.

(B) A person is not a permittee under the General ACDP until the Department assigns the General ACDP to the person.

(C) Assignments to General ACDPs and attachment(s) terminate when the General ACDP or attachment expires or is modified, terminated or revoked.

(D) Once a source has been assigned to a General ACDP, if the assigned General ACDP does not cover all requirements applicable to the source, the other applicable requirements must be covered by assignment to one or more General ACDP Attachments in accordance with OAR 340-216-0062, otherwise the source must obtain a Simple or Standard ACDP.

(E) A source requesting to be assigned to a General ACDP Attachment, in accordance with OAR 340-216-0062, for a source category in a higher annual fee class than the General ACDP the source is currently assigned to, must be reassigned to the General ACDP for the source category in the higher annual fee class.

(3) Department Initiated Modification. If the Department determines that the conditions have changed such that a General ACDP for a category needs to be modified, the Department may issue a new General ACDP for that category and assign all existing General ACDP permit holders to the new General ACDP.

(4) Rescission. In addition to OAR 340-216-0082 (Termination or Revocation of an ACDP), the Department may rescind an individual source's assignment to a General ACDP if the source no longer meets the requirements of this rule or the conditions of the permit, including, but not limited to a source having an ongoing, reoccurring or serious compliance problem. Upon rescinding a source's assignment to a General ACDP the Department will place the source on a Simple or Standard ACDP. The Department may also revoke a General ACDP or attachment or both if conditions, standards or rules have changed so the permit or attachment no longer meets the requirements of this rule.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1725; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 10-2001, f. & cert. ef. 8-30-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-216-0064

### Simple ACDP

(1) Applicability.

(a) Sources and activities listed in Table 1, Part B of OAR 340-216-0020 that do not qualify for a General ACDP and are not required to obtain a Standard ACDP must, at a minimum, obtain a Simple ACDP.

(b) Any source required to obtain a Simple ACDP may obtain a Standard ACDP.

(c) The Department may determine that a source is ineligible for a Simple ACDP and must obtain a Standard ACDP based upon, but not limited to, the following considerations:

(A) The nature, extent, and toxicity of the source's emissions;

(B) The complexity of the source and the rules applicable to that source;

(C) The complexity of the emission controls and potential threat to human health and the environment if the emission controls fail;

(D) The location of the source; and

(E) The compliance history of the source.

(2) Application Requirements. Any person requesting a new, modified, or renewed Simple ACDP must submit an application in accordance with OAR 340-216-0040.

(3) Fees. Applicants for a new or modified Simple ACDP must pay the fees set forth in Table 2 of 340-216-0020. Annual fees for Simple ACDPs will be assessed based on the following:

(a) Low Fee — A Source may qualify for the Low Fee if:

(A) The source is, or will be, permitted under only one of the following categories from OAR 340-216-0020 Table 1, Part B (category 25. Electric Power Generation, may be included with any category listed below):

(i) Category 7. Asphalt felt and coatings;

(ii) Category 13. Boilers and other fuel burning equipment;

(iii) Category 33. Galvanizing & Pipe coating;

(iv) Category 39. Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries 100 or more tons/yr. metal charged (not elsewhere identified);

(v) Category 40. Gypsum products;

(vi) Category 45. Liquid Storage Tanks subject to OAR division 232;

(vii) Category 56. Non-Ferrous Metal Foundries 100 or more tons/yr. of metal charged;

(viii) Category 57. Organic or Inorganic Industrial Chemical Manufacturing;

(ix) Category 62. Perchloroethylene Dry Cleaning;

(x) Category 73. Secondary Smelting and/or Refining of Ferrous and Non-Ferrous Metals; or

(xi) Category 85. All Other Sources not listed in Table 1 which would have actual emissions, if the source were to operate uncontrolled, of 5 or

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more tons a year of direct PM2.5 or PM10 if located in a PM2.5 or PM10 non-attainment or maintenance area, or 10 or more tons of any single criteria pollutant in any part of the state; and

(B) The actual emissions from the 12 months immediately preceding the invoice date, and future projected emissions are less than 5 tons/yr. PM10 in a PM10 nonattainment or maintenance area, and less than 10 tons/yr. for each criteria pollutant; and

(C) The source is not considered an air quality problem or nuisance source by the Department.

(b) High Fee — Any source required to have a Simple ACDP (OAR 340-216-0020 Table 1 Part B) that does not qualify for the Low Fee will be assessed the High Fee.

(c) If the Department determines that a source was invoiced for the Low Annual Fee but does not meet the Low Fee criteria outlined above, the source will be required to pay the difference between the Low and High Fees, plus applicable late fees in accordance with OAR 340-216-0020 Table 2. Late fees start upon issuance of the initial invoice. In this case, the Department will issue a new invoice specifying applicable fees.

(4) Permit Content.

(a) All relevant applicable requirements for source operation, including general ACDP conditions for incorporating generally applicable requirements;

(b) Generic PSELS for all pollutants emitted at more than the de minimis level in accordance with OAR 340 division 222;

(c) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and

(d) A permit duration not to exceed 5 years

(5) Permit issuance procedures:

(a) Issuance of a new or renewed Simple ACDP requires public notice in accordance with OAR 340 division 209 for Category II permit actions.

(b) Issuance of a modification to a Simple ACDP requires one of the following procedures, as applicable:

(A) Non-technical and non-NSR/PSD Basic and Simple technical modifications require public notice in accordance with OAR 340, division 209 for Category I permit actions; or

(B) Issuance of non-NSR/PSD Moderate and Complex technical modifications require public notice in accordance with OAR 340 division 209 for Category II permit actions.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-216-0066

### Standard ACDPs

(1) Application requirements. Any person requesting a new, modified, or renewed Standard ACDP must submit an application in accordance with OAR 340-216-0040 and include the following additional information as applicable:

(a) For new or modified Standard ACDPs that are not subject to NSR (OAR 340 division 224) but have emissions increases above the significant emissions rate, the application must include an analysis of the air quality and visibility (federal major sources only) impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts.

(b) For new or modified Standard ACDPs that are subject to NSR (OAR 340 division 224), the application must include the following additional information as applicable:

(A) A detailed description of the air pollution control equipment and emission reductions processes which are planned for the source or modification, and any other information necessary to determine that BACT or LAER technology, whichever is applicable, would be applied;

(B) An analysis of the air quality and visibility (federal major sources only) impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and

(C) An analysis of the air quality and visibility (federal major sources only) impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth, which has occurred since January 1, 1978, in the area the source or modification would affect.

(2) Fees. Applicants for a Standard ACDP must pay the fees set forth in Table 2 of 340-216-0020.

(3) Permit content. A Standard ACDP is a permit that contains:

(a) all applicable requirements, including general ACDP conditions for incorporating generally applicable requirements;

(b) Source specific PSELS or Generic PSELS, whichever are applicable, as specified in OAR 340, division 222;

(c) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and

(d) A permit duration not to exceed 5 years.

(4) Permit issuance procedures.

(a) Issuance of a new or renewed Standard ACDP requires public notice as follows:

(A) For non-NSR permit actions, issuance of a new or renewed Standard ACDP requires public notice in accordance with OAR 340 division 209 for Category III permit actions for any increase in allowed emissions, or Category II permit actions if no emissions increase is allowed.

(B) For NSR permit actions, issuance of a new Standard ACDP requires public notice in accordance with OAR 340 division 209 for Category IV permit actions.

(b) Issuance of a modified Standard ACDP requires one of the following, as applicable:

(A) Non-technical modifications and non-NSR Basic and Simple technical modifications require public notice in accordance with OAR 340 division 209 for Category I permit actions.

(B) Non-NSR/PSD Moderate and Complex technical modifications require public notice in accordance with OAR 340 division 209 for Category II permit actions if no increase in allowed emissions, or Category III permit actions if an increase in emissions is allowed.

(C) NSR/PSD modifications require public notice in accordance with OAR 340 division 209 for Category IV permit actions.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-216-0070

### Permitting Multiple Sources at a Single Adjacent or Contiguous Site

A single or contiguous site containing activities or processes that are covered by more than one General ACDP, or a source that contains processes or activities listed in more than one Part of Table 1, Part A to Part C, OAR 340-216-0020 may obtain a Standard ACDP.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033, DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0160; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1730; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-216-0090

### Sources Subject to ACDPs and Fees

All air contaminant discharge sources listed in Table 1 OAR 340-216-0020 must obtain a permit from the Department and are subject to fees as set forth in Table 2 OAR 340-216-0020.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

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

Stat. Auth.: ORS 468.020 & 468A.040

Stats. Implemented: ORS 468.065

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033.12; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 11-1983, f. & ef. 5-31-83; DEQ 6-1986, f. & ef. 3-26-86; DEQ 12-1987, f. & ef. 6-15-87; DEQ 17-1990, f. & cert. ef. 5-25-90; DEQ 27-1991, f. & cert. ef. 11-29-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0165; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 22-1994, f. & cert. ef. 10-14-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 18-1997, f. 8-27-97, cert. ef. 10-1-97; DEQ 7-1998, f. & cert. ef. 5-5-98; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1750; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-222-0042

### Short Term PSEL

(1) For sources located in areas with established short term SER (OAR 340-200-0020 Table 3), PSELS are required on a short term basis for those pollutants that have a short term SER. The short term averaging period is daily, unless emissions cannot be monitored on a daily basis. The averaging period for short term PSELS can never be greater than monthly.

(a) For existing sources, the initial short term PSEL will be set as:

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(A) the lesser of the short term capacity or the current permit's short term PSEL, if each is greater than or equal to the short term SER; or

(B) the generic PSEL, if either the short term capacity or the current short term PSEL is less than the short term SER.

(b) For new sources, the initial short term PSEL will be zero.

(2) If an applicant wants a short term PSEL at a rate greater than the initial short term PSEL, the applicant must:

(a) Demonstrate that the requested increase over the initial short term PSEL is less than the significant emission rate (Note: In this case new sources would get a generic PSEL); or

(b) For increases equal to or greater than the SER over the initial short term PSEL:

(A) Obtain offsets and demonstrate a net air quality benefit in accordance with OAR 340-225-0090;

(B) Obtain an allocation from an available growth allowance in accordance with the applicable maintenance plan; or

(C) For carbon monoxide, demonstrate that the source or modification will not cause or contribute to an air quality impact equal to or greater than 0.5 mg/m<sup>3</sup> (8 hour average) and 2 mg/m<sup>3</sup> (1 hour average).

(D) For federal major sources, demonstrate compliance with air quality related values (AQRV) protection in accordance with OAR 340-225-0070.

(3) Once the short term PSEL is increased pursuant to section (2) of this rule, the increased level becomes the initial short term PSEL for future evaluations.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-222-0045

### Unassigned Emissions

(1) Purpose. The purpose of unassigned emissions is to track and manage the difference in the quantity of emissions between the netting basis and what the source could emit based on the facility's current physical and operational design.

(2) Establishing unassigned emissions.

(a) Unassigned emissions equal the netting basis minus the source's current PTE, minus any banked emission reduction credits. Unassigned emissions are zero if this result is negative.

(b) Unused capacity created after the effective date of this rule due to reduced potential to emit that is not banked or expired emission reduction credits (OAR 340-268-0030), increase unassigned emissions on a ton for ton basis.

(3) Maximum unassigned emissions.

(a) Except as provided in paragraph (c) of this section, unassigned emissions will be reduced to not more than the SER (OAR 340-200-0020 Table 2) on July 1, 2007 and at each permit renewal following this date.

(b) The netting basis is reduced by the amount that unassigned emissions are reduced.

(c) In an AQMA where the EPA requires an attainment demonstration based on dispersion modeling, unassigned emissions are not subject to reduction under this rule.

(4) Using unassigned emissions.

(a) Unassigned emissions may be used for internal netting to allow an emission increase at the existing source in accordance with the permit.

(b) Unassigned emissions may not be banked or transferred to another source.

(c) Emissions that are removed from the netting basis are unavailable for netting in any future permit actions.

(5) Upon renewal, modification or other reopening of a permit after July 1, 2002 the unassigned emissions will be established with an expiration date of July 1, 2007 for all unassigned emissions in excess of the SER. Each time the permit is renewed after July 1, 2007 the unassigned emissions will be established again and reduced upon the following permit renewal to no more than the SER for each pollutant in OAR 340-200-0020 Table 2.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

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

Stat. Auth.: ORS 468.020 & 468A.310

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-224-0010

### Applicability and General Prohibitions

(1) Within designated nonattainment and maintenance areas, this division applies to owners and operators of proposed major sources and major

modifications for the regulated pollutant(s) for which the area is designated nonattainment or maintenance.

(2) Within attainment and unclassifiable areas, this division applies to owners and operators of proposed federal major sources and major modifications at federal major sources for the regulated pollutant(s) for which the area is designated attainment or unclassified.

(3) Owners and operators of sources that do not meet the applicability criteria of sections (1) or (2) of this rule are subject to other Department rules, including Highest and Best Practicable Treatment and Control Required (OAR 340-226-0100 through 340-226-0140), Notice of Construction and Approval of Plans (340-210-0205 through 340-210-0250), ACDPs (OAR 340 division 216), Emission Standards for Hazardous Air Contaminants (OAR 340 division 244), and Standards of Performance for New Stationary Sources (OAR 340 division 238).

(4) No owner or operator of a source that meets the applicability criteria of sections (1) or (2) of this rule may begin construction without having received an air contaminant discharge permit (ACDP) from the Department and having satisfied the requirements of this division.

(5) Beginning May 1, 2011, the pollutant GHGs is subject to regulation if:

(a) The source is a new federal major source for a regulated pollutant that is not GHGs, and also emits, will emit or will have the potential to emit 75,000 tons per year CO<sub>2</sub>e or more; or

(b) The source is or becomes a federal major source subject to OAR 340-224-0070 as a result of a major modification for a regulated pollutant that is not GHGs, and will have an emissions increase of 75,000 tons per year CO<sub>2</sub>e or more over the netting basis.

(6) Beginning July 1, 2011, in addition to the provisions in section (5) of this rule, the pollutant GHGs shall also be subject to regulation at:

(a) A new federal major source; or

(b) A source that is or becomes a federal major source when such source undertakes a major modification.

(7) Subject to the requirements in this division, the Lane Regional Air Protection Agency is designated by the Commission as the permitting agency to implement the Oregon Major New Source Review program within its area of jurisdiction. The Regional Agency's program is subject to Department oversight. The requirements and procedures contained in this division pertaining to the Major New Source Review program shall be used by the Regional Agency to implement its permitting program until the Regional Agency adopts superseding rules which are at least as restrictive as state rules.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0220; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1900; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; Administrative correction, 3-29-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-224-0050

### Requirements for Sources in Nonattainment Areas

Within a designated nonattainment area, proposed major sources and major modifications of a nonattainment pollutant, including VOC or NO<sub>x</sub> in a designated ozone nonattainment area or SO<sub>2</sub> or NO<sub>x</sub> in a designated PM<sub>2.5</sub> nonattainment area, must meet the requirements listed below:

(1) Lowest Achievable Emission Rate (LAER). The owner or operator must apply LAER for each nonattainment pollutant or precursor(s) emitted at or above the significant emission rate (SER). LAER applies separately to the nonattainment pollutant or precursor(s) if emitted at or above a SER over the netting basis.

(a) For a major modification, the requirement for LAER applies to the following:

(A) Each emissions unit that emits the nonattainment pollutant or precursor(s) and is not included in the most recent netting basis established for that pollutant; and

(B) Each emissions unit that emits the nonattainment pollutant or precursor(s) and is included in the most recent netting basis but has been modified and the modification resulted in an increase in actual emissions above the portion of the most recent netting basis attributable to the emissions unit or the nonattainment pollutant or precursor(s).

(b) For phased construction projects, the LAER determination must be reviewed at the latest reasonable time before commencing construction of each independent phase.

(c) When determining LAER for a change that was made at a source before the current NSR application, the Department will consider technical feasibility of retrofitting required controls provided:

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(A) The change was made in compliance with NSR requirements in effect when the change was made, and

(B) No limit will be relaxed that was previously relied on to avoid NSR.

(d) Modifications to individual emissions units that increase the potential to emit less than 10 percent of the SER are exempt from this section unless:

(A) They are not constructed yet;

(B) They are part of a discrete, identifiable, larger project that was constructed within the previous 5 years and is equal to or greater than 10 percent of the SER; or

(C) They were constructed without, or in violation of, the Department's approval.

(2) Offsets and Net Air Quality Benefit. The owner or operator must obtain offsets and demonstrate that a net air quality benefit will be achieved as specified in OAR 340-225-0090.

(3) Additional Requirements:

(a) The owner or operator of a source that emits or has the potential to emit 100 tons per year or more of any regulated pollutant subject to this division must evaluate alternative sites, sizes, production processes, and environmental control techniques for the proposed source or modification and demonstrate that benefits of the proposed source or modification will significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.

(b) The owner or operator of a source that emits or has the potential to emit 100 tons per year or more of any regulated pollutant subject to this division must demonstrate that all major sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in the state are in compliance, or are on a schedule for compliance, with all applicable emission limitations and standards under the Act.

(c) The owner or operator of a federal major source must meet the visibility impact requirements in OAR 340-225-0070.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0240; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1930; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; Administrative correction, 3-29-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-224-0060

### Requirements for Sources in Maintenance Areas

Within a designated maintenance area, proposed major sources and major modifications of a maintenance pollutant, including VOC or NOx in a designated ozone maintenance area or SO<sub>2</sub> or NOx in a designated PM<sub>2.5</sub> maintenance area, must meet the requirements listed below:

(1) Best Available Control Technology (BACT). Except as provided in section (5) and (6) of this rule, the owner or operator must apply BACT for each maintenance pollutant or precursor(s) emitted at or above a significant emission rate (SER). BACT applies separately to the maintenance pollutant or precursor(s) if emitted at or above a SER over the netting basis.

(a) For a major modification, the requirement for BACT applies to the following:

(A) Each emissions unit that emits the maintenance pollutant or precursor(s) and is not included in the most recent netting basis established for that pollutant; and

(B) Each emissions unit that emits the maintenance pollutant or precursor (s) and is included in the most recent netting basis but has been modified and the modification resulted in an increase in actual emissions above the portion of the most recent netting basis attributable to the emissions unit or the maintenance pollutant or precursor(s).

(b) For phased construction projects, the BACT determination must be reviewed at the latest reasonable time before commencement of construction of each independent phase.

(c) When determining BACT for a change that was made at a source before the current NSR application, the technical and economic feasibility of retrofitting required controls may be considered, provided:

(A) The change was made in compliance with NSR requirements in effect when the change was made; and

(B) No limit is being relaxed that was previously relied on to avoid NSR.

(d) Modifications to individual emissions units that increase the potential to emit less than 10 percent of the significant emission rate are exempt from this section unless:

(A) They are not constructed yet;

(B) They are part of a discrete, identifiable larger project that was constructed within the previous 5 years and that is equal to or greater than 10 percent of the significant emission rate; or

(C) They were constructed without, or in violation of, the Department's approval.

(2) Air Quality Protection:

(a) Offsets and Net Air Quality Benefit. Except as provided in subsections (b), (c), (d) and (e) of this section, the owner or operator must obtain offsets and demonstrate that a net air quality benefit will be achieved in the area as specified in OAR 340-225-0090.

(b) Growth Allowance. The requirements of this section may be met in whole or in part in an ozone or carbon monoxide maintenance area with an allocation by the Department from a growth allowance, if available, in accordance with the applicable maintenance plan in the SIP adopted by the Commission and approved by EPA. An allocation from a growth allowance used to meet the requirements of this section is not subject to OAR 340-225-0090. Procedures for allocating the growth allowances for the Oregon portion of the Portland-Vancouver Interstate Maintenance Area for Ozone and the Portland Maintenance Area for Carbon Monoxide are contained in 340-242-0430 and 340-242-0440.

(c) In a carbon monoxide maintenance area, a proposed carbon monoxide major source or major modification is exempt from subsections (a) and (b) of this section if the owner or operator can demonstrate that the source or modification will not cause or contribute to an air quality impact equal to or greater than 0.5 mg/m<sup>3</sup> (8 hour average) and 2 mg/m<sup>3</sup> (1-hour average). The demonstration must comply with the requirements of OAR 340-225-0045.

(d) In a PM<sub>10</sub> maintenance area, a proposed PM<sub>10</sub> major source or major modification is exempt from subsection (a) of this section if the owner or operator can demonstrate, pursuant to the requirements of OAR 340-225-0045, that the source or modification will not cause or contribute to an air quality impact in excess of:

(A) 120 ug/m<sup>3</sup> (24-hour average) or 40 ug/m<sup>3</sup> (annual average) in the Grants Pass PM<sub>10</sub> maintenance area;

(B) 140 ug/m<sup>3</sup> (24-hour average) or 47 ug/m<sup>3</sup> (annual average) in the Klamath Falls PM<sub>10</sub> maintenance area; or

(C) 140 ug/m<sup>3</sup> (24-hour average) or 45 ug/m<sup>3</sup> (annual average) in the Lakeview PM<sub>10</sub> maintenance area. In addition, a single source impact is limited to an increase of 5 ug/m<sup>3</sup> (24-hour average) in the Lakeview PM<sub>10</sub> maintenance area.

(e) Proposed major sources and major modifications located in or that impact the Salem Ozone Maintenance Area are exempt from OAR 340-225-0090 and section (2)(a) of this rule for VOC and NOx emissions with respect to ozone formation in the Salem Ozone Maintenance Area.

(3) The owner or operator of a source subject to this rule must provide an air quality analysis in accordance with OAR 340-225-0050(1) and (2), and 340-225-0060.

(4) Additional Requirements for Federal Major Sources: The owner or operator of a federal major source subject to this rule must provide an analysis of the air quality impacts for the proposed source or modification in accordance with OAR 340-225-0050(3) and 340-225-0070. In addition to the provisions of this section, provisions of section 340-224-0070 also apply to federal major sources.

(5) Contingency Plan Requirements. If the contingency plan in an applicable maintenance plan is implemented due to a violation of an ambient air quality standard, this section applies in addition to other requirements of this rule until the Commission adopts a revised maintenance plan and EPA approves it as a SIP revision.

(a) The requirement for BACT in section (1) of this rule is replaced by the requirement for LAER contained in OAR 340-224-0050(1).

(b) An allocation from a growth allowance may not be used to meet the requirement for offsets in section (2) of this rule.

(c) The exemption provided in subsection (2)(c) and (2)(d) of this rule for major sources or major modifications within a carbon monoxide or PM<sub>10</sub> maintenance area no longer applies.

(6) Medford-Ashland AQMA: Proposed major sources and major modifications that would emit PM<sub>10</sub> within the Medford-Ashland AQMA must meet the LAER emission control technology requirements in OAR 340-224-0050.

(7) Pending Redesignation Requests. This rule does not apply to a proposed major source or major modification for which a complete appli-

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cation to construct was submitted to the Department before the maintenance area was redesignated from nonattainment to attainment by EPA. Such a source is subject to OAR 340-224-0050.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1935; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 9-2005, f. & cert. ef. 9-9-05; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-224-0070

### Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas

Within a designated attainment or unclassified area, proposed federal major sources and major modifications at federal major sources for the pollutant(s) for which the area is designated attainment or unclassified, must meet the requirements listed below:

(1) Best Available Control Technology (BACT). The owner or operator must apply BACT for each pollutant or precursor(s) emitted at or above a significant emission rate (SER). BACT applies separately to the pollutant or precursor(s) if emitted at or above a SER over the netting basis. In the Medford-Ashland AQMA, the owner or operator of any proposed new federal major PM10 source, or proposed major modification of a federal major PM10 source must comply with the LAER emission control technology requirement in 340-224-0050(1), and is exempt from the BACT provision of this section.

(a) For a major modification, the requirement for BACT applies to the following:

(A) Each emissions unit that emits the pollutant or precursor(s) and is not included in the most recent netting basis established for that pollutant; and

(B) Each emissions unit that emits the pollutant or precursor(s) and is included in the most recent netting basis but has been modified and the modification resulted in an increase in actual emissions above the portion of the most recent netting basis attributable to the emissions unit or the nonattainment pollutant or precursor(s).

(b) For phased construction projects, the BACT determination must be reviewed at the latest reasonable time before commencement of construction of each independent phase.

(c) When determining BACT for a change that was made at a source before the current NSR application, any additional cost of retrofitting required controls may be considered provided:

(A) The change was made in compliance with NSR requirements in effect at the time the change was made, and

(B) No limit is being relaxed that was previously relied on to avoid NSR.

(d) Modifications to individual emissions units that increase the potential to emit less than 10 percent of the significant emission rate are exempt from this section unless:

(A) They are not constructed yet;

(B) They are part of a discrete, identifiable larger project that was constructed within the previous 5 years and that is equal to or greater than 10 percent of the significant emission rate; or

(C) They were constructed without, or in violation of, the Department's approval.

(2) Air Quality Analysis: The owner or operator of a source subject to this rule must provide an analysis of the air quality impacts of each pollutant for which emissions will exceed the netting basis by the SER or more due to the proposed source or modification in accordance with OAR 340-225-0050 through 340-225-0070.

(a) For increases of direct PM2.5 or PM2.5 precursors equal to or greater than the significant emission rate, the owner or operator must provide an analysis of PM2.5 air quality impacts based on all increases of direct PM2.5 and PM2.5 precursors.

(b) The owner or operator of any source subject to this rule that significantly impacts air quality in a designated nonattainment or maintenance area must meet the requirements of net air quality benefit in 340-225-0090.

(3) Air Quality Monitoring: The owner or operator of a source subject to this rule must conduct ambient air quality monitoring in accordance with the requirements in OAR 340-225-0050.

(4) The owner or operator of a source subject to this rule and significantly impacting a PM10 maintenance area (significant air quality impact is defined in OAR 340-200-0020), must comply with the requirements of 340-224-0060(2).

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 25-1981, f. & cert. ef. 9-8-81; DEQ 5-1983, f. & cert. ef. 4-18-83; DEQ 18-1984, f. & cert. ef. 10-16-84; DEQ 14-1985, f. & cert. ef. 10-16-85; DEQ 5-1986, f. & cert. ef. 2-21-86; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 27-1992, f. & cert. ef. 11-12-92, Section (8) Renumbered from 340-020-0241; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0245; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1940; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; Administrative correction, 3-29-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-225-0020

### Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and 340-200-0020, the definition in this rule applies to this division.

(1) "Allowable Emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(a) The applicable standards as set forth in 40 CFR Parts 60, 61 and 63;

(b) The applicable State Implementation Plan emissions limitation, including those with a future compliance date; or

(c) The emissions rate specified as a federally enforceable permit condition.

(2) "Background Light Extinction" means the reference levels (Mm-1) shown in the estimates of natural conditions as referenced in the FLAG to be representative of the PSD Class I or Class II area being evaluated.

(3) "Baseline Concentration" means:

(a) Except as provided in subsection (c), the ambient concentration level for sulfur dioxide and PM10 that existed in an area during the calendar year 1978. Actual emission increases or decreases occurring before January 1, 1978 must be included in the baseline calculation, except that actual emission increases from any source or modification on which construction commenced after January 6, 1975 must not be included in the baseline calculation;

(b) The ambient concentration level for nitrogen oxides that existed in an area during the calendar year 1988.

(c) For the area of northeastern Oregon within the boundaries of the Umatilla, Willowa-Whitman, Ochoco, and Malheur National Forests, the ambient concentration level for PM10 that existed during the calendar year 1993. The Department may allow the source to use an earlier time period if the Department determines that it is more representative of normal emissions.

(d) For PM10 in the Medford-Ashland AQMA: the ambient PM10 concentration levels that existed during the year that EPA redesignates the AQMA to attainment for PM10.

(e) The ambient concentration level for PM2.5 that existed in an area during the calendar year 2007.

(f) If no ambient air quality data is available in an area, the baseline concentration may be estimated using modeling based on actual emissions for the years specified in subsections (a) through (e) of this section.

(4) "Competing PSD Increment Consuming Source Impacts" means the total modeled concentration above the modeled Baseline Concentration resulting from increased emissions of all other sources since the baseline concentration year that are within the Range of Influence of the source in question. Allowable Emissions may be used as a conservative estimate, in lieu of Actual Emissions, in this analysis.

(5) "Competing NAAQS Source Impacts" means total modeled concentration resulting from allowable emissions of all other sources that are within the Range of Influence of the source in question.

(6) "FLAG" refers to the Federal Land Managers' Air Quality Related Values Work Group Phase I Report — REVISED. See 75 Federal Register 66125, October 27, 2010.

(7) "General Background Concentration" means impacts from natural sources and unidentified sources that were not explicitly modeled. The Department may determine this as site-specific ambient monitoring or representative ambient monitoring from another location.

(8) "Predicted Maintenance Area Concentration" means the future year ambient concentration predicted by the Department in the applicable maintenance plan as follows:

(a) The future year (2015) concentrations for the Grants Pass UGB are 89 µg/m3 (24-hour average) and 21 µg/m3 (annual average).

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(b) The future year (2015) concentrations for the Klamath Falls UGB are 114 µg/m<sup>3</sup> (24-hour average) and 25 µg/m<sup>3</sup> (annual average).

(c) The future year (2025) concentrations for the Lakeview UGB are 126 µg/m<sup>3</sup> (24-hour average) and 27 µg/m<sup>3</sup> (annual average).

(9) "Nitrogen Deposition" means the sum of anion and cation nitrogen deposition expressed in terms of the mass of total elemental nitrogen being deposited. As an example, Nitrogen Deposition for NH<sub>4</sub>NO<sub>3</sub> is 0.3500 times the weight of NH<sub>4</sub>NO<sub>3</sub> being deposited.

(10) "Ozone Precursor Distance" means the distance in kilometers from the nearest boundary of a designated ozone nonattainment or maintenance area within which a major new or modified source of VOC or NO<sub>x</sub> is considered to significantly affect that designated area. The determination of significance is made by either the formula method or the demonstration method.

(a) The Formula Method.

(A) For sources with complete permit applications submitted before January 1, 2003:  $D = 30 \text{ km}$

(B) For sources with complete permit applications submitted on or after January 1, 2003:  $D = (Q/40) \times 30 \text{ km}$

(C) D is the Ozone Precursor Distance in kilometers. The value for D is 100 kilometers when D is calculated to exceed 100 kilometers. Q is the larger of the NO<sub>x</sub> or VOC emissions increase from the source being evaluated in tons/year, and is quantified relative to the netting basis.

(D) If a source is located at a distance less than D from the designated area, the source is considered to have a significant effect on the designated area. If the source is located at a distance equal to or greater than D, it is not considered to have a significant effect.

(b) The Demonstration Method. An applicant may demonstrate to the Department that the source or proposed source would not significantly impact a nonattainment area or maintenance area. This demonstration may be based on an analysis of major topographic features, dispersion modeling, meteorological conditions, or other factors. If the Department determines that the source or proposed source would not significantly impact the nonattainment area or maintenance area under high ozone conditions, the Ozone Precursor Distance is zero kilometers.

(11) "Ozone Precursor Offsets" means the emission reductions required to offset emission increases from a major new or modified source located inside the designated nonattainment or maintenance area or within the Ozone Precursor Distance. Emission reductions must come from within the designated area or from within the Ozone Precursor Distance of the offsetting source as described in OAR 340-225-0090. The offsets determination is made by either the formula method or the demonstration method.

(a) The Formula Method.

(A) Required offsets (RO) for new or modified sources are determined as follows:

(i) For sources with complete permit applications submitted before January 1, 2003:  $RO = SQ$

(ii) For sources with complete permit applications submitted on or after January 1, 2003:  $RO = (SQ \text{ minus } (40/30 * SD))$

(B) Contributing sources may provide offsets (PO) calculated as follows:  $PO = CQ \text{ minus } (40/30 * CD)$

(C) Multiple sources may contribute to the required offsets of a new source. For the formula method to be satisfied, total provided offsets (PO) must equal or exceed the required offset (RO).

(D) Definitions of factors used in paragraphs (A) (B) and (C) of this subsection:

(i) RO is the required offset of NO<sub>x</sub> or VOC in tons per year as a result of the source emissions increase. If RO is calculated to be negative, RO is set to zero;

(ii) SQ is the source emissions increase of NO<sub>x</sub> or VOC in tons per year above the netting basis;

(iii) SD is the source distance in kilometers to the nonattainment or maintenance area. SD is zero for sources located within the nonattainment or maintenance area.

(iv) PO is the provided offset from a contributing source and must be equal to or greater than zero;

(v) CQ is the contributing emissions reduction in tons per year quantified relative to contemporaneous pre-reduction actual emissions (OAR 340-268-0030(1)(b)).

(vi) CD is the contributing source distance in kilometers to the nonattainment or maintenance area. For a contributing source located within the nonattainment or maintenance area, CD equals zero.

(b) The Demonstration Method. An applicant may demonstrate to the Department using dispersion modeling or other analyses the level and location of offsets that would be sufficient to provide actual reductions in con-

centrations of VOC or NO<sub>x</sub> in the designated area during high ozone conditions. The modeled reductions of ambient VOC or NO<sub>x</sub> concentrations resulting from the emissions offset must be demonstrated over a greater area and over a greater period of time within the designated area as compared to the modeled ambient VOC or NO<sub>x</sub> concentrations resulting from the emissions increase from the source subject to this rule. If the Department determines that the demonstration is acceptable, then the Department will approve the offsets proposed by the applicant. The demonstration method does not apply to sources located inside an ozone nonattainment area.

(12) "Range of Influence (ROI)" means:

(a) For PSD Class II and Class III areas, the Range of Influence of a competing source (in kilometers) is defined by:

(A)  $ROI \text{ (km)} = Q \text{ (tons/year)} / K \text{ (tons/year km)}$ .

(B) Definition of factors used in paragraph (A) of this subsection:

(i) ROI is the distance a source has an effect on an area and is compared to the distance from a potential competing source to the Significant Impact Area of a proposed new source. Maximum ROI is 50 km, however the Department may request that sources at a distance greater than 50 km be included in a competing source analysis.

(ii) Q is the emission rate of the potential competing source in tons per year.

(iii) K (tons/year km) is a pollutant specific constant as defined in the table below:

(b) For PSD Class I areas, the Range of Influence of a competing source includes emissions from all sources that occur within the modeling domain of the source being evaluated. The Department determines the modeling domain on a case-by-case basis.

(13) "Source Impact Area" means a circular area with a radius extending from the source to the largest distance to where predicted impacts from the source or modification equal or exceed the Class II Significant Air Quality Impact levels set out in OAR 340-200-0020 Table 1. This definition only applies to PSD Class II areas and is not intended to limit the distance for PSD Class I modeling.

(14) "Sulfur Deposition" means the sum of anion and cation sulfur deposition expressed in terms of the total mass of elemental sulfur being deposited. As an example, sulfur deposition for (NH<sub>4</sub>)<sub>2</sub>SO<sub>4</sub> is 0.2427 times the weight of (NH<sub>4</sub>)<sub>2</sub>SO<sub>4</sub> being deposited.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-6-03; Administrative correction 11-10-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 9-2005, f. & cert. ef. 9-9-05; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; Administrative correction, 3-29-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-225-0030

### Procedural Requirements

Information Required. In addition to the requirements defined in OAR 340-216-0040, the owner or operator of a source (where required by divisions 222 or 224) must submit all information necessary to perform any analysis or make any determination required under these rules. Such information must include, but is not limited to:

(1) Emissions data for all existing and proposed emission points from the source or modification. This data must represent maximum emissions for the averaging times by pollutant consistent with the ambient air quality standards in division 202.

(2) Stack parameter data (height above ground, exit diameter, exit velocity, and exit temperature data for all existing and proposed emission points from the source or modification;

(3) An analysis of the air quality and visibility impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and

(4) An analysis of the air quality and visibility impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth, that has occurred since January 1, 1978, in the area the source or modification would significantly affect.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; Administrative correction, 3-29-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

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## 340-225-0045

### Requirements for Analysis in Maintenance Areas

Modeling: For determining compliance with the limits established in OAR 340-224-0060(2)(c) and (2)(d), NAAQS, and PSD Increments, the following methods must be used:

(1) For each maintenance pollutant and its precursors, a single source impact analysis is sufficient to show compliance with standards, PSD increments, and limits if modeled impacts from emission increases equal to or greater than a significant emission rate above the netting basis due to the proposed source or modification being evaluated are less than the Class II Significant Air Quality Impact Levels specified in OAR 340-200-0020 Table 1.

(2) If the requirement in section (1) of this rule is not satisfied, the owner or operator of a proposed source or modification being evaluated must perform competing source modeling as follows:

(a) For demonstrating compliance with the maintenance area limits established in OAR 340-224-0060(2)(c) and (2)(d), the owner or operator of a proposed source or modification must show that modeled impacts from the proposed increased emissions plus Competing Source Impacts, plus predicted maintenance area concentration are less than the limits for all averaging times.

(b) For demonstrating compliance with the NAAQS, the owner or operator of a proposed source or modification must show that the total modeled impacts plus total Competing NAAQS Source Impacts plus General Background Concentrations are less than the NAAQS for all averaging

(c) For demonstrating compliance with the PSD Increments (as defined in OAR 340-202-0210, Table 1), the owner or operator of a proposed source or modification must show that modeled impacts from the proposed increased emissions (above the baseline concentration) plus competing PSD Increment Consuming Source Impacts (above the baseline concentration) are less than the PSD increments for all averaging times.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.468A.025 & 468A.035

Hist.: DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; Administrative correction, 3-29-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-225-0050

### Requirements for Analysis in PSD Class II and Class III Areas

Modeling: For determining compliance with the NAAQS and PSD Increments in PSD Class II and Class III areas, the following methods must be used:

(1) For each pollutant and its precursors, a single source impact analysis is sufficient to show compliance with standards and PSD increments if modeled impacts from emission increases equal to or greater than a significant emission rate above the netting basis due to the proposed source or modification being evaluated are less than the Class II Significant Air Quality Impact Levels specified in OAR 340-200-0020, Table 1.

(2) If the requirement in section (1) of this rule is not satisfied, the owner or operator of a proposed source or modification being evaluated must perform competing source modeling as follows:

(a) For demonstrating compliance with the PSD Increments (as defined in OAR 340-202-0210, Table 1), the owner or operator of a proposed source or modification must show that modeled impacts from the proposed increased emissions (above the modeled Baseline Concentration) plus Competing PSD Increment Consuming Source Impacts (above the modeled Baseline Concentration) are less than the PSD increments for all averaging times.

(b) For demonstrating compliance with the NAAQS, the owner or operator of a proposed source must show that the total modeled impacts plus total Competing NAAQS Source Impacts plus General Background Concentrations are less than the NAAQS for all averaging times.

(3) Additional Impact Modeling:

(a) When referred to this rule by divisions 222 or 224, the owner or operator of a source must provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification, and general commercial, residential, industrial and other growth associated with the source or modification. As a part of this analysis, deposition modeling analysis is required for sources emitting heavy metals above the significant emission rates as defined in OAR 340-200-0020, Table 2. Concentration and deposition modeling may also be required for sources emitting other compounds on a case-by-case basis;

(b) The owner or operator must provide an analysis of the air quality concentration projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or modification.

(4) Air Quality Monitoring:

(a)(A) When referred to this rule by division 224, the owner or operator of a source must submit with the application an analysis of ambient air quality in the area impacted by the proposed project. This analysis, which is subject to the Department's approval, must be conducted for each pollutant potentially emitted at a significant emission rate by the proposed source or modification. The analysis must include continuous air quality monitoring data for any pollutant that may be emitted by the source or modification, except for volatile organic compounds. The data must relate to the year preceding receipt of the complete application and must have been gathered over the same time period. The Department may allow the owner or operator to demonstrate that data gathered over some other time period would be adequate to determine that the source or modification would not cause or contribute to a violation of an ambient air quality standard or any applicable pollutant increment. Pursuant to the requirements of these rules, the owner or operator must submit for the Department's approval, a preconstruction air quality monitoring plan. This plan must be submitted in writing at least 60 days prior to the planned beginning of monitoring and approved in writing by the Department before monitoring begins.

(B) Required air quality monitoring must be conducted in accordance with 40 CFR 58 Appendix B, "Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring" (July 1, 2000) and with other methods on file with the Department.

(C) The Department may exempt the owner or operator of a proposed source or modification from preconstruction monitoring for a specific pollutant if the owner or operator demonstrates that the air quality impact from the emissions increase would be less than the amounts listed below or that modeled competing source concentration (plus General Background Concentration) of the pollutant within the Source Impact Area are less than the following significant monitoring concentrations:

(i) Carbon monoxide; 575 ug/m3, 8 hour average;

(ii) Nitrogen dioxide; 14 ug/m3, annual average;

(iii) PM10; 10 ug/m3, 24 hour average;

(iv) PM2.5; 4 ug/m3, 24-hour average;

(v) Sulfur dioxide; 13 ug/m3, 24 hour average;

(vi) Ozone; Any net increase of 100 tons/year or more of VOCs from a source or modification subject to PSD requires an ambient impact analysis, including the gathering of ambient air quality data. However, requirement for ambient air monitoring may be exempted if existing representative monitoring data shows maximum ozone concentrations are less than 50% of the ozone NAAQS based on a full season of monitoring;

(vii) Lead; 0.1 ug/m3, 24 hour average;

(viii) Fluorides; 0.25 ug/m3, 24 hour average;

(ix) Total reduced sulfur; 10 ug/m3, 1 hour average;

(x) Hydrogen sulfide; 0.04 ug/m3, 1 hour average;

(xi) Reduced sulfur compounds; 10 ug/m3, 1 hour average.

(D) The Department may allow the owner or operator of a source (where required by divisions 222 or 224) to substitute post construction monitoring for the requirements of (4)(a)(A) for a specific pollutant if the owner or operator demonstrates that the air quality impact from the emissions increase would not cause or contribute to an exceedance of any air quality standard. This analysis must meet the requirements of 340-225-0050(2)(b) and must use representative or conservative General Background Concentration data.

(E) When PM10 preconstruction monitoring is required by this section, at least four months of data must be collected, including the season(s) the Department judges to have the highest PM10 levels. PM10 must be measured in accordance with 40 CFR part 50, Appendix J (July 1, 1999). In some cases, a full year of data will be required.

(b) After construction has been completed, the Department may require ambient air quality monitoring as a permit condition to establish the effect of emissions, other than volatile organic compounds, on the air quality of any area that such emissions could affect.

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

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; Administrative correction, 3-29-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-225-0060

### Requirements for Demonstrating Compliance with Standards and Increments in PSD Class I Areas

For determining compliance with standards and increments in PSD Class I areas, the following methods must be used:



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(1) Before January 1, 2003, the owner or operator of a source (where required by divisions 222 or 224) must model impacts and demonstrate compliance with standards and increments on all PSD Class I areas that may be affected by the source or modification.

(2) On or after January 1, 2003, the owner or operator of a source (where required by divisions 222 or 224) must meet the following requirements:

(a) For each pollutant and its precursors, a single source impact analysis will be sufficient to show compliance with increments if modeled impacts from emission increases equal to or greater than a significant emission rate above the netting basis due to the proposed source or modification being evaluated are demonstrated to be less than the Class I impact levels specified in OAR 340-200-0020, **Table 1**.

(b) If the requirement in subsection (a) of this section is not satisfied, the owner or operator must also show that the increased source impacts (above Baseline Concentration) plus Competing PSD Increment Consuming Source Impacts are less than the PSD increments for all averaging times.

(c) For each pollutant and its precursors, a single source impact analysis will be sufficient to show compliance with standards if modeled impacts from emission increases equal to or greater than a significant emission rate above the netting basis due to the proposed source or modification being evaluated are demonstrated to be less than the Class II impact levels specified in OAR 340-200-0020, **Table 1**.

(d) If the requirement of subsection (2)(a) of this section is not satisfied, and background monitoring data for each PSD Class I area shows that the NAAQS is more controlling than the PSD increment then the source must also demonstrate compliance with the NAAQS by showing that their total modeled impacts plus total modeled Competing NAAQS Source Impacts plus General Background Concentrations are less than the NAAQS for all averaging times.

[ED. NOTE: Table referenced is available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; Administrative correction, 3-29-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-225-0090

### Requirements for Demonstrating a Net Air Quality Benefit

Demonstrations of net air quality benefit for offsets must include the following:

(1) Ozone areas (VOC and NO<sub>x</sub> emissions). For sources capable of impacting a designated ozone nonattainment or maintenance area;

(a) Offsets for VOC and NO<sub>x</sub> are required if the source will be located within the designated area or within the Ozone Precursor Distance.

(b) The amount and location of offsets must be determined in accordance with this subsection:

(A) For new or modified sources locating within a designated nonattainment area, the offset ratio is 1.1:1. These offsets must come from within either the same designated nonattainment area as the new or modified source or another ozone nonattainment area (with equal or higher nonattainment classification) that contributes to a violation of the NAAQS in the same designated nonattainment area as the new or modified source.

(B) For new or modified sources locating within a designated maintenance area, the offset ratio is 1.1:1. These offsets may come from within either the designated area or the ozone precursor distance.

(C) For new or modified sources locating outside the designated area, but within the ozone precursor distance, the offset ratio is 1:1. These offsets may come from within either the designated area or the ozone precursor distance.

(D) Offsets from outside the designated area but within the Ozone Precursor Distance must be from sources affecting the designated area in a comparable manner to the proposed emissions increase. Methods for determining offsets are described in the Ozone Precursor Offsets definition (OAR 340-225-0020(11)).

(c) In lieu of obtaining offsets, the owner or operator may obtain an allocation at the rate of 1:1 from a growth allowance, if available, in an applicable maintenance plan.

(d) Sources within or affecting the Medford Ozone Maintenance Area are exempt from the requirement for NO<sub>x</sub> offsets relating to ozone formation.

(e) Sources within or affecting the Salem Ozone Maintenance Area are exempt from the requirement for VOC and NO<sub>x</sub> offsets relating to ozone formation.

(2) Non-Ozone areas (PM<sub>2.5</sub>, PM<sub>10</sub>, SO<sub>2</sub>, CO, NO<sub>x</sub>, and Lead emissions):

(a) For a source locating within a designated nonattainment area, the owner or operator must comply with paragraphs (A) through (E) of this subsection:

(A) Obtain offsets from within the same designated nonattainment area for the nonattainment pollutant(s);

(B) Except as provided in paragraph (C) of this subsection, provide a minimum of 1:1 offsets for each nonattainment pollutant and precursor with emission increases over the Netting Basis;

(C) For PM<sub>2.5</sub>; inter-pollutant offsets are allowed as follows:

(i) 1 ton of direct PM<sub>2.5</sub> may be used to offset 40 tons of SO<sub>2</sub>;

(ii) 1 ton of direct PM<sub>2.5</sub> may be used to offset 100 tons of NO<sub>x</sub>;

(iii) 40 tons of SO<sub>2</sub> may be used to offset 1 ton of direct PM<sub>2.5</sub>;

(iv) 100 tons of NO<sub>x</sub> may be used to offset 1 ton of direct PM<sub>2.5</sub>.

(D) Provide a net air quality benefit within the designated nonattainment area. "Net Air Quality Benefit" means:

(i) Offsets obtained result in a reduction in concentration at a majority of the modeled receptors and the emission increases from the proposed source or modification will result in less than a significant impact level increase at all modeled receptors; or

(ii) For a small scale local energy project and any infrastructure related to that project located in the same area, a reduction of the nonattainment pollutant emissions equal to the ratio specified in this subsection, provided that the proposed major source or major modification would not cause or contribute to a violation of the national ambient air quality standard or otherwise pose a material threat to compliance with air quality standards in the nonattainment area.

(E) Provide offsets sufficient to demonstrate reasonable further progress toward achieving the NAAQS.

(b) For a source locating outside a designated nonattainment area but causing a significant air quality impact on the area, the owner or operator must provide offsets sufficient to reduce the modeled impacts below the significant air quality impact level (OAR 340-200-0020) at all receptors within the designated nonattainment area. These offsets may come from within or outside the designated nonattainment area.

(c) For a source locating inside or causing a significant air quality impact on a designated maintenance area, the owner or operator must either provide offsets sufficient to reduce modeled impacts below the significant air quality impact level (OAR 340-200-0020) at all receptors within the designated maintenance area or obtain an allocation from an available growth allowance as allowed by an applicable maintenance plan. These offsets may come from within or outside the designated maintenance area.

(A) Medford-Ashland AQMA: Proposed new major PM<sub>10</sub> sources or major PM<sub>10</sub> modifications locating within the AQMA that are required to provide emission offsets under OAR 340-224-0060(2)(a) must provide reductions in PM<sub>10</sub> emissions equal to 1.2 times the emissions increase over the netting basis from the new or modified source, and must provide a net air quality benefit within the AQMA. "Net Air Quality Benefit" means:

(i) A reduction in concentration at a majority of the modeled receptors and less than a significant impact level increase at all modeled receptors; or

(ii) For a small scale local energy project and any infrastructure related to that project located in the same area, a reduction of the maintenance pollutant emissions equal to the ratio specified in this paragraph, provided that the proposed major source or major modification would not cause or contribute to a violation of the national ambient air quality standard or otherwise pose a material threat to compliance with air quality standards in the maintenance area.

(B) Medford-Ashland AQMA: Proposed new major PM<sub>10</sub> sources or major PM<sub>10</sub> modifications located outside the Medford-Ashland AQMA that cause a significant air quality impact on the AQMA must provide reductions in PM<sub>10</sub> emissions sufficient to reduce modeled impacts below the significant air quality impact level (OAR 340-200-0020) at all receptors within the AQMA.

(3) Except as provided in paragraph (2)(a)(C) of this rule, the emission reductions used as offsets must be of the same type of pollutant as the emissions from the new source or modification. Sources of PM<sub>10</sub> must be offset with particulate in the same size range.

(4) The emission reductions used as offsets must be contemporaneous, that is, the reductions must take effect before the time of startup but not more than two years before the submittal of a complete permit application for the new source or modification. This time limitation may be extended through banking, as provided for in OAR 340 division 268, Emission Reduction Credit Banking. In the case of replacement facilities, the Department may allow simultaneous operation of the old and new facilities during the startup period of the new facility, if net emissions are not

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increased during that time period. Any emission reductions must be federally enforceable at the time of the issuance of the permit.

(5) Offsets required under this rule must meet the requirements of Emissions Reduction Credits in OAR 340 division 268.

(6) Emission reductions used as offsets must be equivalent in terms of short term, seasonal, and yearly time periods to mitigate the effects of the proposed emissions.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.025

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 22-1989, f. & cert. ef. 9-26-89; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0260; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 4-1995, f. & cert. ef. 2-17-95; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1970; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0111; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-224-0090 & 340-240-0260; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-6-03; Administrative correction 11-10-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; Administrative correction, 3-29-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-228-0300

### Federal Regulations Adopted by Reference

(1) **40 CFR Parts 72, 75, and 76** (July 2, 2010) are by this reference adopted and incorporated herein, for purposes of implementing an acid rain program that meets the requirements of title IV of the Clean Air Act. The term "permitting authority" means the Oregon Department of Environmental Quality and the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency.

(2) If the provisions or requirements of **40 CFR Part 72** conflict with or are not included in OAR 340 divisions 218 or 220, the Part 72 provisions and requirements shall apply and take precedence.

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

Stat. Auth.: ORS 468.020 & 468.310(2)

Stats. Implemented: ORS 468A.025

Hist.: DEQ 32-1994, f. & cert. ef. 12-22-94; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0075; DEQ 22-2000, f. & cert. ef. 12-18-00; DEQ 13-2006, f. & cert. ef. 12-22-06; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

## 340-246-0230

### Safety Net Source Air Toxics Emissions Reduction Measures in Permit

(1) Public Participation. The Department will hold public informational meetings to discuss proposed air toxics emissions reduction measures. After the informational meetings, the Department will provide at least 40-days notice before holding a public hearing to collect official comments on the proposed air toxics emissions reduction measures.

(2) Permit or Permit Modification. After considering public comments, the Department will propose air toxics emissions reduction measures to be placed in the source's permit, according to the reopening process for Oregon Title V permits in OAR 340-218-0200 or Oregon Title V Permit issuance in 340-218-0120 or Department Initiated Permit Modifications in 340-216-0084 or Air Contaminant Discharge Permit issuance in 340-216-0020, Table 1, Part B, line 74.

Stat. Auth.: ORS 468.035, 468A.010(1) & 468A.015

Stats. Implemented:

Hist.: DEQ 15-2003, f. & cert. ef. 11-3-03; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

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**Rule Caption:** Oregon Low Emission Vehicles – 2011 Update.

**Adm. Order No.:** DEQ 6-2011

**Filed with Sec. of State:** 4-29-2011

**Certified to be Effective:** 4-29-11

**Notice Publication Date:** 1-1-2011

**Rules Amended:** 340-257-0030, 340-257-0050, 340-257-0060, 340-257-0070, 340-257-0090, 340-257-0110, 340-257-0120, 340-257-0140

**Subject:** Oregon adopted California's motor vehicle emissions standards as allowed by the federal Clean Air Act and is obligated to have the same rule requirements as California. This rulemaking updates Oregon's Low Emission Vehicle program by incorporating California's current regulations. The most prominent changes allow auto manufacturers the option to use streamlined methods to demonstrate they meet greenhouse gas emission limits. The rule amendments also adjust Zero Emission Vehicle goals to allow the use of Plug-in Hybrid Electric Vehicles and provide numerous additional changes.

**Rules Coordinator:** Maggie Vandehey—(503) 229-6878

## 340-257-0030

### Definitions and Abbreviations

The definitions in OAR 340-200-0020, the definitions in CCR, Title 13, sections incorporated by reference, and the definitions in this rule apply to this division. If the same term is defined in different passages, the definitions in this rule apply first, followed by definitions in CCR Title 13 sections incorporated by reference, and finally the definitions in OAR 340-200-0020.

(1) "Assembled vehicle" means a motor vehicle that:

(a) Is an assembled vehicle under ORS 801.130; or

(b) Is a replica vehicle under ORS 801.425.

(c) Will be used for occasional transportation, exhibitions, club activities, parades, tours, testing its operation, repairs or maintenance and similar uses; and

(d) Will not be used for general daily transportation.

(2) "ATPZEV" means advanced technology Partial Zero Emission Vehicle as defined in CCR, Title 13, section 1962.1(i) California effective date 2/13/2010.

(3) "CARB" means California Air Resources Board.

(4) "CCR" means California Code of Regulations.

(5) "Custom vehicle" means a motor vehicle that:

(a) Is a street rod under ORS 801.513; or

(b) Was manufactured to resemble a vehicle at least twenty-five (25) years old and of a model year after 1948; and

(A) Has been altered from the manufacturer's original design; or

(B) Has a body constructed from non-original materials.

(6) "Emergency vehicle" means a vehicle as defined in ORS 801.260 that is equipped with lights and sirens as required under ORS 820.350 and 820.370 and that is any of the following:

(a) Operated by public police, fire or airport security agencies.

(b) Designated as an emergency vehicle by a federal agency.

(c) Designated as an emergency vehicle by the Director of Transportation.

(7) "Emission credits" are earned when a manufacturer's reported fleet average is less than the required fleet average. Credits are calculated according to formulas contained in CCR, Title 13, section 1961(c) California effective date 12/8/2010 and 1961.1(b) California effective date 4/1/2010.

(8) "Emission debits" are earned when a manufacturer's reported fleet average exceeds the required fleet average. Debits are calculated according to formulas contained in CCR, Title 13, section 1961(c) California effective date 12/8/2010 and 1961.1(b) California effective date 4/1/2010.

(9) "Fleet average greenhouse gas emission requirements" are generally referred to as limitations on greenhouse gas exhaust mass emission values from passenger cars, light-duty trucks and medium-duty passenger vehicles. The fleet average greenhouse gas emission requirements are set forth in CCR, Title 13, section 1961.1(b), and incorporated herein by reference. California effective date 4/1/2010

(10) "Gross vehicle weight rating" or "GVWR" is the value specified by the manufacturer as the loaded weight of a single vehicle.

(11) "Independent low volume manufacturer" is defined in CCR, Title 13, section 1900(b)(8) and incorporated herein by reference. California effective date 4/17/2009.

(12) "Intermediate volume manufacturer" is defined in CCR, Title 13, section 1900(b)(9) and incorporated herein by reference. California effective date 4/17/2009.

(13) "Large volume manufacturer" is defined in CCR, Title 13, section 1900(b)(10) and incorporated herein by reference. California effective date 4/17/2009.

(14) "Light duty truck" is any 2000 and subsequent model year motor vehicle certified to the standards in CCR, Title 13, section 1961(a)(1) California effective date 12/8/2010, rated at 8,500 pounds gross vehicle weight or less, and any other motor vehicle rated at 6,000 pounds gross vehicle weight or less, which is designed primarily for the purposes of transportation of property, is a derivative of such vehicle, or is available with special features enabling off-street or off-highway operation and use.

(15) "Medium duty passenger vehicle" (MDPV) is any medium-duty vehicle with a gross vehicle weight rating of less than 10,000 pounds that is designed primarily for the transportation of persons. The medium-duty passenger vehicle definition does not include any vehicle which

(a) Is an "incomplete truck" i.e., is a truck that does not have the primary load carrying device or container attached; or

(b) Has a seating capacity of more than 12 persons; or

(c) Is designed for more than 9 persons in seating rearward of the driver's seat; or

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(d) Is equipped with an open cargo area of 72.0 inches in interior length or more. A covered box not readily accessible from the passenger compartment will be considered an open cargo area for the purpose of this definition.

(16) "Medium duty vehicle" means any pre-1995 model year heavy-duty vehicle having a manufacturer's gross vehicle weight rating of 8,500 pounds or less; any 1992 through 2006 model-year heavy-duty low-emission, ultra-low-emission, super-ultra-low-emission or zero-emission vehicle certified to the standards in section 1960.1(h)(2) having a manufacturer's gross vehicle weight rating of 14,000 pounds or less; and any 2000 and subsequent model heavy-duty low-emission, ultra-low-emission, super-ultra-low-emission or zero-emission vehicle certified to the standards in Section 1961(a)(1) or 1962.1 having a manufacturer's gross vehicle weight rating between 8,501 and 14,000 pounds.

(17) "Model year" is the manufacturer's annual production period which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year. In the case of any vehicle manufactured in two or more stages, the time of manufacture is the date of completion of the chassis.

(18) "Non-methane organic gas" (NMOG) is the sum of non-oxygenated and oxygenated hydrocarbons contained in a gas sample as measured in accordance with the "California Non-Methane Organic Gas Test Procedures," which is incorporated herein by reference.

(19) "NMOG fleet average emissions" is a motor vehicle manufacturer's average vehicle emissions of all non-methane organic gases from passenger cars and light duty trucks in any model year subject to this regulation delivered for sale in Oregon.

(20) "Passenger car" is any motor vehicle designed primarily for transportation of persons and having a design capacity of twelve persons or less.

(21) "PZEV" means partial zero emission vehicle as defined in CCR, Title 13, section 1962.1(j) California effective date 2/13/2010.

(22) "Small volume manufacturer" is defined as set forth in CCR, Title 13, section 1900(b)(22) California effective date 4/17/2009, and incorporated herein by reference.

(23) "ZEV" means zero emission vehicle as defined in CCR Title 13, section 1962.1(j) California effective date 2/13/2010.

[Publications referenced are available from the agency.]  
Stat. Auth.: ORS 468.020, 468A.025 & 468A.360  
Stats. Implemented: ORS 468.020  
Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06; DEQ 6-2011, f. & cert. ef. 4-29-11

## 340-257-0050

### Incorporation by Reference

(1) For purposes of applying the incorporated sections of the California Code of Regulations, "California" means "Oregon" and "Air Resources Board (ARB)" or "California Air Resources Board (CARB)" means Department of Environmental Quality or Environmental Quality Commission depending on context, unless otherwise specified in this division or the application is clearly inappropriate.

(2) Emission standards, warranty, recall and other California provisions adopted by reference. Each manufacturer of new 2009 and subsequent model year passenger cars, light duty trucks, and medium duty vehicles must comply with each applicable standard specified in California Code of Regulations (CCR), Title 13 as incorporated by reference herein:

(a) Section 1900: Definitions. California effective date 4/17/09.

(b) Section 1956.8(g) and (h): Exhaust Emission Standards and Test Procedures — 1985 and Subsequent Model Heavy Duty Engines and Vehicles. California effective date 12/8/10.

(c) Section 1960.1: Exhaust Emission Standards and Test Procedures — 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles. California effective date 3/26/04.

(d) Section 1961: Exhaust Emission Standards and Test Procedures — 2004 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 12/8/10.

(e) Section 1961.1: Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 4/1/10.

(f) Section 1962.1: Zero-Emission Vehicle Standards for 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 2/13/10.

(g) Section 1962.2: Electric Vehicle Charging Requirements. California effective date 4/17/09.

(h) Section 1965: Emission Control and Smog Index Labels - 1979 and Subsequent Model Year Vehicles. California effective date 6/16/08.

(i) Section 1968.2: Malfunction and Diagnostic System Requirements - 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles. California effective date 6/17/10.

(j) Section 1968.5: Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines. California effective date 11/9/07.

(k) Section 1976: Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions. California effective date 12/8/10.

(l) Section 1978: Standards and Test Procedures for Vehicle Refueling Emissions. California effective date 12/8/10.

(m) Section 2035: Purpose, Applicability and Definitions. California effective date 11/9/07.

(n) Section 2037: Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles. California effective date 11/9/07.

(o) Section 2038: Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such. California effective date 11/9/07.

(p) Section 2039: Emission Control System Warranty Statement. California effective date 12/26/90.

(q) Section 2040: Vehicle Owner Obligations. California effective date 12/26/90.

(r) Section 2046: Defective Catalyst. California effective date 2/15/79.

(s) Section 2109: New Vehicle Recall Provisions. California effective date 12/30/83.

(t) Section 2111: Applicability. California effective date 12/8/10.

(u) Section 2112: Definitions. California effective date 11/15/03.

(v) Appendix A to Article 2.1. California effective date 8/16/2009.

(w) Section 2113: Initiation and Approval of Voluntary and Influenced Recalls. California effective date 1/26/95.

(x) Section 2114: Voluntary and Influenced Recall Plans. California effective date 11/27/99.

(z) Section 2115: Eligibility for Repair. California effective date 1/26/95.

(aa) Section 2116: Repair Label. California effective date 1/26/95.

(bb) Section 2117: Proof of Correction Certificate. California effective date 1/26/95.

(cc) Section 2118: Notification. California effective date 1/26/95.

(dd) Section 2119: Record keeping and Reporting Requirements. California effective date 11/27/99.

(ee) Section 2120: Other Requirements Not Waived. California effective date 1/26/95.

(ff) Section 2122: General Provisions. California effective date 12/8/2010.

(gg) Section 2123: Initiation and Notification of Ordered Emission-Related Recalls. California effective date 1/26/95.

(hh) Section 2124: Availability of Public Hearing. California effective date 1/26/95.

(ii) Section 2125: Ordered Recall Plan. California effective date 1/26/95.

(jj) Section 2126: Approval and Implementation of Recall Plan. California effective date 1/26/95.

(kk) Section 2127: Notification of Owners. California effective date 1/26/95.

(ll) Section 2128: Repair Label. California effective date 1/26/95.

(mm) Section 2129: Proof of Correction Certificate. California effective date 1/26/95.

(nn) Section 2130: Capture Rates and Alternative Measures. California effective date 11/27/99.

(oo) Section 2131: Preliminary Tests. California effective date 1/26/95.

(pp) Section 2132: Communication with Repair Personnel. California effective date 1/26/95.

(qq) Section 2133: Record keeping and Reporting Requirements. California effective date 1/26/95.

(rr) Section 2135: Extension of Time. California effective date 1/26/95.

(ss) Section 2141: General Provisions. California effective date 12/8/10.

(tt) Section 2142: Alternative Procedures. California effective date 2/23/90.

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(uu) Section 2143: Failure Levels Triggering Recall. California effective date 11/27/99.

(vv) Section 2144: Emission Warranty Information Report. California effective date 11/27/99.

(ww) Section 2145: Field Information Report. California effective date 11/27/99.

(xx) Section 2146: Emissions Information Report. California effective date 11/27/99.

(yy) Section 2147: Demonstration of Compliance with Emission Standards. California effective date 8/16/09.

(zz) Section 2148: Evaluation of Need for Recall. California effective date 11/27/99.

(aaa) Section 2149: Notification of Subsequent Action. California effective date 2/23/90.

(bbb) Section 2235: Requirements. California effective date 9/17/91.

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

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468.020

Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06; DEQ 6-2011, f. & cert. ef. 4-29-11

## 340-257-0060

### Exemptions

The following vehicles are not subject to this division:

(1) Military tactical vehicles;

(2) Vehicles sold for registration and use in a state that is not subject to the California vehicle emission standards;

(3) Previously registered vehicles with more than seven thousand five hundred miles, provided that for vehicle dealers, the mileage at the time of sale is determined by the odometer statement when the dealer acquired the vehicle;

(4) Vehicles available only for rent to a final destination in a state that is not subject to the California vehicle emission standards;

(5) Vehicles purchased by a nonresident before establishing residency in the State of Oregon, regardless of the mileage on the vehicle;

(6) Vehicles purchased by Oregon residents while assigned to active government service outside the State of Oregon;

(7) Vehicles transferred from one person to another due to: death, inheritance, devise or bequest; divorce, dissolution, annulment or legal separation; merger or consolidation; bankruptcy; court judgment or decree; or possessory lien, seizure or foreclosure;

(8) Emergency vehicles; (9) A vehicle acquired by an Oregon resident to replace a vehicle registered to such resident that was stolen, damaged or failed beyond reasonable repair while out of state, provided that such replacement vehicle is acquired out of state when the previously-owned vehicle was either stolen, damaged, or failed beyond reasonable repair; and

(10) Custom and assembled vehicles that:

(a) Will be maintained for occasional transportation, exhibitions, club activities, parades, tours, testing of operation, repair, maintenance and similar uses; and

(b) Will not be used for general daily transportation.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468.020

Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06; DEQ 6-2011, f. & cert. ef. 4-29-11

## 340-257-0070

### Fleet Average Non-Methane Organic Gas (NMOG) Exhaust Emission Requirements, Reporting, and Compliance.

(1) Fleet average requirement. Effective model year 2009 and each model year thereafter, each motor vehicle manufacturer's NMOG fleet average emissions from passenger cars, light duty trucks and medium duty vehicles delivered for sale in Oregon must not exceed the Fleet Average NMOG Exhaust Emission Requirement set forth in CCR, Title 13, section 1961 California effective date 12/18/2010. Compliance will be based on the number of vehicles, subject to this regulation, delivered for sale in Oregon.

(2) Fleet average NMOG exhaust emission credits and debits. Effective model year 2009, each vehicle manufacturer may accrue NMOG emission credits and debits and use credits in accordance with the procedures in California Code of Regulations, Title 13, section 1961 California effective date 12/18/2010. Debits and credits accrued and used will be based on the number of vehicles, subject to this division, produced and delivered for sale by each manufacturer in Oregon.

(3) Reporting. Effective model year 2009, and for each model year thereafter, each manufacturer must report to DEQ by March 1 data that calculates the fleet average NMOG exhaust emissions for the model year just ended. The report must follow the procedures in CCR, Title 13, section

1961 California effective date 12/18/2010 and be in the same format used to report such information to the California Air Resources Board.

(4) Compliance with fleet average NMOG requirement. Effective model year 2012, if a report submitted by the manufacturer under subsection(3)(b) of this rule demonstrates that the manufacturer is not in compliance with the fleet average emission standard, the manufacturer must submit to DEQ within 60 days a Fleet Average Remediation Report. The Fleet Average Remediation Report must:

(a) Describe how the manufacturer intends to equalize any accrued debits, as required in CCR, Title 13, section 1961(c)(3) California effective date 12/18/2010;

(b) Identify all vehicle models delivered for sale in Oregon, their corresponding certification standards, and the percentage of each model delivered for sale in Oregon and California in relation to total fleet sales in the respective state; and

(c) Describe how the manufacturer plans to achieve compliance with the fleet average in future model years.

(5) For model years 2009 through 2011, manufacturers must submit the Fleet Average Remediation Report, if needed, to DEQ by March 1, 2012. If debits are accrued in all three years, one year of debits must be equalized by the end of the 2012 model year.

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

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360

Stats. Implemented: ORS 468.020

Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06; DEQ 6-2011, f. & cert. ef. 4-29-11

## 340-257-0090

### ZEV Credit Bank and Reporting

(1) Beginning model year 2009, each intermediate volume and large volume manufacturer of ZEVs, ATPZEVs, and PZEVs may open an account in the ZEV Credit Bank operated by DEQ. (2) In order to generate and deposit credits for vehicles delivered for sale in Oregon during the 1999 through 2005 model years, a manufacturer must open an account with the ZEV Credit Bank and submit an appropriate Notice of Generation to DEQ on or before September 1, 2006.

(3) Manufacturers wishing to claim ZEV credits must use the format and process contained in CARB's Manufacturer's Advisory Correspondence (MAC) 2011-01 for reporting and tracking ZEV deliveries and placements, unless this division specifies different requirements. DEQ will follow CARB's procedures contained in that MAC for tracking and recording ZEV sales and credits.

(4) Except as provided in section (2) of this rule, annually each manufacturer must submit to DEQ a Notice of Credit Generation or Notice of Credit Transfer to or from another manufacturer. Credits generated or acquired must be reported to DEQ on or before September 1 following the close of the model year in which the qualifying vehicle was produced and delivered for sale in Oregon.

(5) To deposit credits into the ZEV Credit Bank, a manufacturer must submit a Notice of Credit Generation to DEQ. The Notice of Generation must include the following:

(a) For ZEVs delivered for sale in Oregon:

(A) Manufacturer's ZEV Credit Bank account identifier;

(B) Model year of vehicle qualifying for credit;

(C) CARB Executive Order number;

(D) ZEV Tier type (NEV, 0, I, II, III for California, III for Section 177 states);

(E) Vehicle identification number; and

(F) Date the vehicle was delivered for sale in Oregon.

(b) For ZEVs placed in service in Oregon, all information listed under subsection (6)(a) of this rule, plus the following:

(A) Date the vehicle was placed in service, and

(B) Whether the vehicle was placed in service with an option to purchase or lease the vehicle.

(c) For ATPZEVs and PZEVs delivered for sale in Oregon:

(A) Vehicle certification class (ATPZEV or PZEV);

(B) Manufacturer's ZEV Credit Bank account identification;

(C) Model year of vehicle(s);

(D) For ATPZEVs, the Federal test group;

(E) The CARB Executive Order number;

(F) Number of vehicles delivered; and

(6) The number of the credits generated and deposited for each qualifying vehicle must be the number of qualifying vehicles multiplied by the applicable multiplier specified in CCR, Title 13, section 1962 California effective date 2/13/2010, except the multiplier applied to vehicles produced

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and delivered for sale in Oregon from January 1, 1999 to January 13, 2004 will be the highest applicable multiplier used by the CARB for the period January 1, 1999 to January 13, 2004.

(7) A vehicle equivalent credit does not constitute or convey a property right.

(8) A manufacturer with an account in the ZEV Credit Bank may acquire credits from another manufacturer with an account in the ZEV Credit Bank. However, if the credits are to be used for future compliance with the ZEV sales requirement at CCR Title 13, section 1962.1 California effective date 2/13/2010, the transaction must be recorded in the ZEV Credit Bank and certified by both parties to the transaction.

(9) A manufacturer may deposit into its account in the ZEV Credit Bank a number of credits equal to its California credit balance at the beginning of the 2009 model year. The transferred credit balance will be multiplied by the number of new motor vehicles registered in Oregon, and divided by the number of new motor vehicles registered in California. The proportion of new motor vehicles in Oregon and California will be determined by the average number of vehicles registered in model years 2003 through 2005, or by the average number of vehicles registered in model year 2009. The deposit may be made only after all credit obligations for model years 2008 and earlier have been satisfied in California.

(10) Each manufacturer with a ZEV Credit Bank account under this rule must report to the Department the following information:

(a) By May 1, 2009, the total number of PC and LDT1 vehicles produced and delivered for sale in Oregon and California for 2003 through 2005 model years; or

(b) By May 1, 2009, the total projected number of PC and LDT1 vehicles to be produced and delivered for sale in Oregon and California during model year 2009 and, by March 1, 2010, the actual number of 2009 model year PC and LDT1 vehicles produced and delivered for sale in Oregon and California; and

(c) By May 1, 2009, provide the Department with the total number of banked California credits after all 2008 model year and earlier obligations have been met.

(11) A manufacturer electing to deposit credits under section (9) of this rule must offer for sale in Oregon in model years 2009 through 2011 any PZEV, ATPZEV or ZEV, except Type III ZEVs, that it offers for sale in California during the same period.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 468.020, 468A.025 & 468A.360  
Stats. Implemented: ORS 468.020  
Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06; DEQ 6-2011, f. & cert. ef. 4-29-11

## 340-257-0110

### Additional Reporting Requirements

(1) The manufacturer must submit to DEQ one copy of the California Executive Order and Certificate of Conformity for certification of new motor vehicles for each engine family to be sold in the State of Oregon within thirty (30) days of DEQ's. If such reports are available electronically, the manufacturer must send the record in an electronic format acceptable to the director or the director's designee.

(2) To determine compliance with this division, DEQ may require any vehicle manufacturer to submit any documentation DEQ deems necessary to the effective administration and enforcement of this division, including all certification materials submitted to CARB.

(3) Upon request, dealers must report to DEQ the sale of each previously-titled light-duty and medium-duty motor vehicle subject to this division. The report must include the following information and be submitted in a manner DEQ prescribes:

- (a) The dealer's name and address;
- (b) Vehicle description including make and model year;
- (c) The vehicle identification number;
- (d) Date of sale;
- (e) The California or federal emission category to which the vehicle is certified; and
- (f) Evidence of any applicable exemption.

Stat. Auth.: ORS 468.020, 468A.025 & 468A.360  
Stats. Implemented: ORS 468.020  
Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06; DEQ 6-2011, f. & cert. ef. 4-29-11

## 340-257-0120

### Warranty Requirements

(1) For all 2009 and subsequent model year vehicles subject to the provisions of this division, each manufacturer must provide, to the ultimate

purchaser and each subsequent purchaser, a warranty that complies with the requirements contained in CCR, Title 13, sections 2035 through 2038, 2040, and 2046.

(2) The 15-year or 150,000-mile extended warranty specified in CCR, Title 13, section 1962.1(c)(2)(D) for PZEVs is not included as a requirement of this rule or OAR 340-257-0050, provided that PZEVs delivered for sale to Oregon are equipped with the same quality components as PZEVs supplied to areas where the full 15-year or 150,000-mile warranty remains in effect. The provisions of this section do not amend the requirements of CCR, Title 13, section 1962.1(c)(2)(D) that indicate the warranty period for a zero emission energy storage device used for traction power will be 10 years or 150,000 miles, whichever occurs first.

(3) For all 2009 and subsequent model year vehicles subject to the provisions of this division, each manufacturer must include the emission control system warranty statement that complies with the requirements in CCR, Title 13, section 2039. Manufacturers may modify this statement as necessary to inform Oregon vehicle owners of the warranty's applicability. The manufacturer must provide a telephone number that Oregon consumers can use to learn answers to warranty questions.

(4) Upon the Department's request, any manufacturer must submit to the Department Failure of Emission-Related Components reports as defined in CCR, Title 13, section 2144, for vehicles subject to this regulation. For purposes of compliance with this requirement, manufacturers may submit copies of the Failure of Emission-Related Components reports that are submitted to the California Air Resources Board in lieu of submitting reports for vehicles subject to this division.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 468.020, 468A.025 & 468A.360  
Stats. Implemented: ORS 468.020  
Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06; DEQ 6-2011, f. & cert. ef. 4-29-11

## 340-257-0140

### Permits and Fees

(1) "Indirect source" as defined in OAR 340-254-0030(6) includes a large or intermediate volume manufacturer for purposes of OAR 340-0254-0010. Such sources are subject to permit and fee requirements as specified in section (2) of this rule and not the provisions in OAR 340-254-0040 to 340-254-0080.

(2) Beginning January 1, 2007, each large-volume or intermediate-volume vehicle manufacturer offering light duty or medium duty vehicles for sale in Oregon must have a Motor Vehicle Indirect Source permit issued by DEQ. Each Motor Vehicle Indirect Source permit will be issued for a period of up to 10 years and is subject to an annual fee.

(3) Each large-volume and intermediate-volume manufacturer must report to DEQ the number of light and medium-duty vehicles it delivered for sale in Oregon during the previous model year. These reports must be submitted to DEQ by March 1 of each year except as provided in section (7) of this rule.

(4) DEQ will assess annual permit fees for each large and intermediate-volume manufacturer for periods beginning July 1 and ending June 30 of the subsequent year except as provided in section (7) of this rule.

(5) DEQ will assess annual permit fees by apportioning a total of \$200,000 among all Motor Vehicle Indirect Source Permit holders according to each permit holder's reported market share for the previous model year except as provided in section (7) of this rule. In the event that not all required data are reported, DEQ will estimate the total Oregon market share for the applicable year and the resulting fees according to means the Department judges to be appropriate.

(6) Within 60 days after reports required by this rule are due, DEQ will notify each large and intermediate-volume manufacturer of the fee required for the next permit period. Within 30 days of receiving notice of the required permit fee, each permit holder must remit the specified amount payable to the Oregon Department of Environmental Quality. Motor Vehicle Indirect Source permits for which permit fees are not current will be deemed to have lapsed and will no longer be in effect.

(7) The initial report required by section (3) of this rule must be submitted by October 1, 2006. The initial period for which a Motor Vehicle Indirect Source Permit is required begins January 1, 2007 and ends June 30 of the same year. Total permit fees for the initial period will be \$200,000.

Stat. Auth.: ORS 468.065, 468A.010, 468A.015, 468A.040.  
Stats. Implemented: ORS 468.020  
Hist.: DEQ 10-2005(Temp), f. 12-27-05, cert. ef. 1-1-06 thru 6-30-06; DEQ 6-2006, f. & cert. ef. 6-29-06; DEQ 6-2011, f. & cert. ef. 4-29-11

# ADMINISTRATIVE RULES

## Department of Fish and Wildlife Chapter 635

**Rule Caption:** Diamond Lake Trout Bag Limit Increased to Eight Per Day.

**Adm. Order No.:** DFW 31-2011(Temp)

**Filed with Sec. of State:** 4-18-2011

**Certified to be Effective:** 5-1-11 thru 10-27-11

**Notice Publication Date:**

**Rules Amended:** 635-016-0090

**Subject:** This amended rule allows an increase to the daily bag limit for trout in Diamond Lake. The 2009 Diamond Lake Management Plan established management of the lake under the Basic Yield alternative (OAR 635-500-0703). Increasing the harvest of trout will help reduce potential surplus biomass accumulation in the lake and retain the high trophic community levels currently observed.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

### 635-016-0090

#### Inclusions and Modifications

(1) The **2011 Oregon Sport Fishing Regulations** provide requirements for the Southwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2011 Oregon Sport Fishing Regulations**.

(2) Notwithstanding all other requirements provided in the 2011 Oregon Sport Fishing Regulations, the following restrictions apply to angling in waters of the Southwest Zone:

(a) Within the Coos River Basin the following additional rules apply:

(A) All waters of the South Fork Coos River upstream from the head of tidewater at Dellwood at RM 10.0 are closed for Chinook salmon from August 1 through December 31 and closed for steelhead from August 1 through November 14; and

(b) Within the Coquille River Basin the following additional rules apply:

(A) Open for non fin-clipped coho salmon in Coquille River and Bay upstream to the Highway 42S bridge (Sturdivant Park) at RM 24.0 from September 1 through the earlier of November 30 or attainment of an adult coho quota of 1,200 non fin-clipped coho. The daily catch limit may include one adult non fin-clipped coho salmon per day and one non fin-clipped jack coho salmon, and no more than 5 total adult non fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(c) Within the Tenmile Lakes Basin the following additional rules apply:

(A) Tenmile Lakes (Coos County) upstream from Hilltop Bridge are open for non fin-clipped coho salmon from October 1 through the earlier of December 31 or attainment of an adult coho quota of 500 non fin-clipped coho. The daily catch limit may include one adult non fin-clipped coho salmon per day and one non fin-clipped jack coho salmon, and no more than 5 total adult non fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone. Only one rod per angler may be used while angling for coho. Streams that empty into North and South Tenmile Lakes are not open to coho salmon angling, nor is the canal that connects North and South Tenmile Lakes.

(d) All waters of Floras Creek upstream of the County Road 124 bridge over Floras Creek at RM 5.0 are closed for Chinook salmon between August 1 and December 31.

(e) All waters of the Sixes River upstream of Edson Creek at RM 10.0 are closed for Chinook salmon between August 1 and December 31.

(f) All waters of the Chetco River mainstem upstream of the power-line crossing at RM 2.2 are closed to angling from August 1 through November 5.

(g) All waters of the Winchuck River mainstem, including tidewater, are closed to angling from August 1 through November 5.

(h) Diamond Lake is open April 23 through October 31, 2011.

(A) Effective April 23-30 and October 28-31, 2011 trout catch limits are 5 per day, two daily limits in possession; 8-inch minimum length, only one trout over 20 inches may be taken per day; and use of bait is not allowed.

(B) Effective May 1 through October 27 trout catch limits are increased to 8 per day – all other regulations remain as stated in section (2)(h)(A) above and in the **2011 Oregon Sport Fishing Regulations**.

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

Stat. Auth.: ORS 496.138 & 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 80-1993(Temp), f. 12-21-93, cert. ef. 1-1-94; FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 79-1994(Temp), f. 10-21-94, cert. ef. 7-22-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 57-1995(Temp), f. 7-3-95, cert. ef. 7-4-95; FWC 59-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 82-1995(Temp), f. 9-29-95, cert. ef. 10-1-95; FWC 90-1995(Temp), f. 11-29-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 52-1996, f. & cert. ef. 9-11-96; FWC 61-1996, f. & cert. ef. 10-9-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 32-1997(Temp), f. & cert. ef. 5-23-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 24-1998(Temp), f. & cert. ef. 3-25-98 thru 9-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 52-1998(Temp), f. 7-10-98, cert. ef. 7-11-98 thru 7-24-98; DFW 55-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 48-2000(Temp), f. 8-14-00, cert. ef. 8-15-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 8-2001, f. & cert. ef. 3-5-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 42-2001(Temp), f. 5-25-01, cert. ef. 5-29-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 97-2001(Temp), f. 10-4-01, cert. ef. 11-1-01 thru 12-31-01; DFW 105-2001(Temp), f. 10-26-01, cert. ef. 11-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 55-2002(Temp), f. 5-28-02, cert. ef. 7-1-02 thru 11-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 124-2002(Temp), f. & cert. ef. 10-30-02 thru 12-31-02 (Suspended by DFW 125-2002(Temp), f. 11-8-02, cert. ef. 11-9-2002); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 127-2004, f. 12-22-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 24-2006(Temp), f. 4-25-06, cert. ef. 5-13-06 thru 10-31-06; DFW 37-2006(Temp), f. 6-2-06, cert. ef. 6-5-06 thru 12-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 47-2007(Temp), f. 6-18-07, cert. ef. 6-21-07 thru 10-31-07; DFW 56-2007(Temp), 7-6-07, cert. ef. 8-1-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 137-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 54-2008(Temp), f. 5-28-08, cert. ef. 6-1-08 thru 7-31-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 138-2008(Temp), f. 10-28-08, cert. ef. 11-1-08 thru 11-30-08; DFW 140-2008(Temp), f. 11-4-08, cert. ef. 11-5-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 57-2009(Temp), f. 5-27-09, cert. ef. 6-1-09 thru 7-31-09; DFW 77-2009(Temp), f. 6-29-09, cert. ef. 7-1-09 thru 7-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 113-2009(Temp), f. & cert. ef. 9-18-09 thru 12-31-09; DFW 141-2009(Temp), f. 11-4-09, cert. ef. 11-7-09 thru 12-21-09; DFW 143-2009(Temp), f. 11-17-09, cert. ef. 11-19-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 65-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 5-31-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 143-2010(Temp), f. 10-8-10, cert. ef. 10-10-10 thru 12-31-10; DFW 152-2010(Temp), f. 10-27-10, cert. ef. 10-30-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 31-2011(Temp), f. 4-18-11, cert. ef. 5-1-11 thru 10-27-11

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**Rule Caption:** Modified 2011 Commercial Spring-Summer Fisheries for Columbia River Select Areas.

**Adm. Order No.:** DFW 32-2011(Temp)

**Filed with Sec. of State:** 4-20-2011

**Certified to be Effective:** 4-21-11 thru 7-29-11

**Notice Publication Date:**

**Rules Amended:** 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180

**Rules Suspended:** 635-042-0145(T), 635-042-0160(T), 635-042-0170(T), 635-042-0180(T)

**Subject:** Amended rules to rescind the commercial fishing period previously scheduled to occur from April 21 thru April 26, 2011. Modifications are to seasons for Chinook salmon and sturgeon spring and summer commercial fisheries in the Columbia River Select Areas. Modifications are consistent with the action taken April 20, 2011 by the Columbia River Compact agencies of Oregon and Washington in cooperation with the Columbia River Treaty tribes.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

### 635-042-0145

#### 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:

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(i) Entire Youngs Bay: 6:00 p.m. to midnight Monday, April 18, 2011 (6 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:

(i) 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 183.325, 506.109 & 506.119

Stats. Implemented: ORS 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; FWC 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; FWC 14-1998, f. & cert. ef. 3-3-98; FWC 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; FWC 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; FWC 67-1998, f. & cert. ef. 8-24-98; FWC 10-1999, f. & cert. ef. 2-26-99; FWC 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; FWC 55-1999, f. & cert. ef. 8-12-99; FWC 9-2000, f. & cert. ef. 2-25-00; FWC 42-2000, f. & cert. ef. 8-3-00; FWC 3-2001, f. & cert. ef. 2-6-01; FWC 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; FWC 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; FWC 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; FWC 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; FWC 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; FWC 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; FWC 12-2003, f. & cert. ef. 2-14-03; FWC 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; FWC 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; FWC 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; FWC 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; FWC 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; FWC 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; FWC 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; FWC 11-2004, f. & cert. ef. 2-13-04; FWC 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; FWC 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; FWC 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; FWC 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; FWC 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; FWC 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; FWC 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; FWC 6-2005, f. & cert. ef. 2-14-05; FWC 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; FWC 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; FWC 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; FWC 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05;

DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; 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; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 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:

(i) 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:

(i) Monday and Thursday nights beginning Monday, April 18; then Thursday, April 28 through Thursday, June 9, 2011 (14 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

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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 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 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. & 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. 2-13-02 thru 12-31-01; DFW 14-2002(Temp), f. & cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. ef. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. ef. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. & cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. & cert. ef. 4-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. & cert. ef. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. & cert. ef. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 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. & cert. ef. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. & cert. ef. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. & cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. & cert. ef. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. & cert. ef. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. & cert. ef. 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. & cert. ef. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. & cert. ef. 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. & cert. ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. & cert. ef. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. & cert. ef. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 61-2007(Temp), f. & cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. & cert. ef. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. & cert. ef. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. & cert. ef. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. & cert. ef. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 103(Temp), f. & cert. ef. 8-26-08, cert. ef. 9-2-08 thru 10-31-08; DFW 108-2008(Temp), f. & cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. & cert. ef. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 49-2009(Temp), f. & cert. ef. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. & cert. ef. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. & cert. ef. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 15-2010(Temp), f. & cert. ef. 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. & cert. ef. 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. & cert. ef. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. & cert. ef. 4-20-11, cert. ef. 4-21-11 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) Salmon, shad and white sturgeon may be taken for commercial purposes in those waters of Tongue Point and South Channel as described in section (1) and section (2) of this rule. Open fishing periods are:

(a) Spring Season: Monday and Thursday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning Thursday, April 28 through Thursday, June 9, 2011 (13 nights).

(4) Gear restrictions are as follows:

(a) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is unlawful to use a gill net having a mesh size that is more than 9.75-inches. While fishing during the seasons described in this rule, gillnets with lead line in excess of two pounds per fathom may be stored on boats.

(b) In waters described in section (2) as South Channel, nets are restricted to 100 fathoms in length with no weight restrictions on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is unlawful to use a gill net having a mesh size that is more than 9.75-inches. While fishing during the seasons described in this rule, gillnets up to 250 fathoms in length may be stored on boats.

(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 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; FWC 61-1997(Temp), f. & cert. ef. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. & cert. ef. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. & cert. ef. 5-29-98, cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. & cert. ef. 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. & cert. ef. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. ef. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative correction 7-30-04; DFW 79-2004(Temp), f. & cert. ef. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 85-2005(Temp), f. & cert. ef. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. & cert. ef. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 76-2006(Temp), f. & cert. ef. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 103-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. & cert. ef. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. & cert. ef. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 44-2008(Temp), f. & cert. ef. 4-25-08, cert. ef. 4-28-08 thru 10-24-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. & cert. ef. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. & cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. & cert. ef. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 89-2009(Temp), f. & cert. ef. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. & cert. ef. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 15-2010(Temp), f. & cert. ef. 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. & cert. ef. 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. & cert. ef. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. & cert. ef. 4-20-11, cert. ef. 4-21-11 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:



# ADMINISTRATIVE RULES

(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.

(A) 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 April 20, 2011; and April 27 through June 8, 2011 (15 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; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11

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**Rule Caption:** 2011 Columbia River Recreational Spring Chinook Season Above Bonneville Dam.

**Adm. Order No.:** DFW 33-2011(Temp)

**Filed with Sec. of State:** 4-21-2011

**Certified to be Effective:** 4-21-11 thru 6-15-11

**Notice Publication Date:**

**Rules Amended:** 635-023-0125

**Rules Suspended:** 635-023-0125(T)

**Subject:** This amended rule extends the ongoing sport fishery in the Columbia River upstream of the Bonneville Dam by seven (7) days through May 1, 2011. This action affects the area 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. Revisions are consistent with action taken April 20, 2011 by the Columbia River Compact agencies of Oregon and Washington in cooperation with the Columbia River Treaty Tribes.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-023-0125

### 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 April 8 through April 19, 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 May 1, 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.

(a) 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

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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; DFW 28-2011(Temp), f. 4-7-11, cert. ef. 4-8-11 thru 6-15-11; DFW 30-2011(Temp), f. 4-15-11, cert. ef. 4-16-11 thru 6-15-11; DFW 33-2011(Temp), f. & cert. ef. 4-21-11 thru 6-15-11

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

**Adm. Order No.:** DFW 34-2011

**Filed with Sec. of State:** 4-27-2011

**Certified to be Effective:** 5-1-11

**Notice Publication Date:** 3-1-2011

**Rules Amended:** 635-003-0003, 635-013-0003

**Subject:** The amended rules incorporate, by reference, the annual ocean commercial (OAR 635-003-0003) troll salmon and annual ocean sport (OAR 635-013-0003) salmon specifications and management measures as adopted by the Pacific Fishery Management Council at its annual **Ocean Salmon Management Measures and Impacts** meeting, as finalized in April 2011. Housekeeping and technical corrections to the regulations were made to ensure rule consistency.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-003-0003

### Purpose and Scope

(1) The purpose of division 3 is to provide for management of commercial salmon fisheries off the Oregon Coast over which the state has jurisdiction.

(2) Division 3 incorporates into Oregon Administrative Rules, by reference, the annual ocean troll salmon specifications and management measures as adopted by the **Pacific Fishery Management Council** in its annual **Ocean Salmon Management Measures and Impacts**, as finalized in April 2011, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart H (61FR34572, July 2, 1996**, as amended to incorporate the standards in the **Pacific Fishery Management Council** referenced document). Therefore, persons must consult the **Pacific Fishery Management Council** referenced document and **Federal Regulations** in addition to division 3 to determine all applicable troll salmon fishing requirements. A copy of the **Pacific Fishery Management Council** referenced document and the **Federal Regulations** may be obtained by contacting the Pacific Fishery

Management Council at [www.pcouncil.org](http://www.pcouncil.org) or at 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

(3) To the extent not preempted by Federal law, these regulations apply within the State of Oregon's Fisheries Conservation Zone (out to fifty miles from shore).

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 20-1996, f. & cert. ef. 4-29-96; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 38-2000, f. & cert. ef. 7-3-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; Administrative correction, 11-16-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 72-2010, f. & cert. ef. 5-25-10; DFW 34-2011, f. 4-27-11, cert. ef. 5-1-11

## 635-013-0003

### Purpose and Scope

(1) The purpose of division 13 is to provide for management of sport salmon fisheries off the Oregon Coast over which the State has jurisdiction.

(2) This rule incorporates by reference, the annual ocean sport salmon specifications and management measures as adopted by the **Pacific Fishery Management Council** in its annual **Ocean Salmon Management Measures and Impacts**, as finalized in April 2011, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations (CFR), Title 50, Part 660, Subparts A and H**.

(3) This rule also incorporates by reference the **2011 Oregon Sport Fishing Regulations**.

(4) A copy of the **Pacific Fishery Management Council** referenced document and the **Federal Regulations** may be obtained by contacting the **Pacific Fishery Management Council** at [www.pcouncil.org](http://www.pcouncil.org) or at 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

(5) To the extent not preempted by Federal law, these regulations apply within the State of Oregon's Fisheries Conservation Zone (out to fifty miles from shore).

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 44-1984(Temp), f. & cert. ef. 8-23-84; FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 52-1989(Temp), f. & cert. ef. 7-28-89; FWC 37-1990, f. & cert. ef. 5-1-90; FWC 31-1992, f. 4-29-92, cert. ef. 5-1-92; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-95; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 72-1996, f. 12-21-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 38-2000, f. & cert. ef. 7-3-00; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; Administrative correction, 11-16-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 72-2010, f. & cert. ef. 5-25-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 34-2011, f. 4-27-11, cert. ef. 5-1-11

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**Rule Caption:** Youngs Bay Select Area Commercial Chinook Fisheries Modified.

**Adm. Order No.:** DFW 35-2011(Temp)

**Filed with Sec. of State:** 4-28-2011

**Certified to be Effective:** 4-28-11 thru 7-29-11

**Notice Publication Date:**

**Rules Amended:** 635-042-0145

**Rules Suspended:** 635-042-0145(T)

**Subject:** Amended rule to reduce the amount of fishing time for two previously authorized commercial fishing periods scheduled to occur on April 28 and May 1, 2011 in the Youngs Bay select area fishery. Modifications changed the start times from 6:00 p.m. to 4:00 p.m. and reduced the duration of the fisheries from 18 to 5 hours. Revisions are consistent with action taken April 27, 2011 by the State of Oregon.

**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:

# ADMINISTRATIVE RULES

## (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); 4:00 p.m. to 9:00 p.m. Thursday, April 28 (5 hours); 4:00 p.m. to 9:00 p.m. Sunday, May 1, 2011 (5 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 headline is allowed upstream of markers located approximately 200 yards upstream of the mouth of the Walluski River during all Youngs Bay commercial fisheries.

(3) A maximum of 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 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. & 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04;

DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. & 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. & 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. & 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. & 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. & 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. & 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. & 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. & 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. & 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. & 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. & 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. & 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. & 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. & 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. & 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. & 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. & 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. & 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. & 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. & 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. & 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. & 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. & 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. & 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. & 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. & 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. & 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. & 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. & 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. & 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. & 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; 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; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. & 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11

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**Rule Caption:** Rules Regarding the Authority to Take or Harass Wildlife.

**Adm. Order No.:** DFW 36-2011

**Filed with Sec. of State:** 5-4-2011

**Certified to be Effective:** 5-4-11

**Notice Publication Date:** 2-1-2011

**Rules Amended:** 635-043-0051

**Subject:** This rule clarifies sworn law enforcement officers' authority to take or harass wildlife for law enforcement activities.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-043-0051

### Authority to Take or Harass Wildlife

(1) In accordance with ORS 496.012, 496.162, 497.298, 498.002, and 498.006, Department staff or their agents, and sworn law enforcement officers, may take or harass wildlife in the times, places and manners necessary for:

- Scientific purposes pursuant to Department programs;
  - Protection against a threat to human safety;
  - Protection of land or property from damage;
  - Wildlife management purposes pursuant to Department programs;
  - Education and display purposes;
  - Rehabilitation of sick, injured or orphaned wildlife; and
  - Law enforcement activities.
- (2) Harassment means acts that frighten or chase but do not kill wildlife.

Stat. Auth.: ORS 496

Stats. Implemented: ORS 496

Hist.: DFW 47-2001, f. & cert. ef. 6-13-01; DFW 12-2002, f. & cert. ef. 2-12-02; DFW 75-2010(Temp), f. & cert. ef. 6-2-10 thru 11-28-10; DFW 98-2010(Temp), f. & cert. ef. 7-9-10 thru 1-3-11; Administrative correction 1-25-11; DFW 36-2011, f. & cert. ef. 5-4-11

# ADMINISTRATIVE RULES

**Rule Caption:** Rules Regarding the Greater Sage-Grouse Conservation Assessment and Strategy for Oregon.

**Adm. Order No.:** DFW 37-2011

**Filed with Sec. of State:** 5-4-2011

**Certified to be Effective:** 5-4-11

**Notice Publication Date:** 11-1-2010

**Rules Adopted:** 635-140-0015

**Rules Amended:** 635-140-0000, 635-140-0005, 635-140-0010

**Rules Repealed:** 635-140-0025

**Subject:** Amended rules regarding the Greater Sage-Grouse Conservation Assessment and Strategy for Oregon. Amendments include, a refinement of population estimates, implementation accomplishments, and proposed core area approach to habitat mitigation.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-140-0000

### Purpose

These administrative rules establish the state policy for the protection and enhancement of Greater Sage-Grouse in Oregon. The Commission anticipates that these policies will be implemented by Department staff as described in the “Greater Sage-Grouse Conservation Assessment and Strategy for Oregon” plan, most of which is not, however, incorporated into this rule. (Copies of the plan are available through the Oregon Department of Fish and Wildlife.) OAR 635-140-0005 and 635-140-0010 incorporate into rule those portions of the plan which set population and habitat management objectives. OAR 635-140-0015 incorporates those portions of the plan which govern the Department’s core area strategy and recommendations concerning conservation and mitigation.

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

Stats Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: DFW 94-2005, f. & cert. ef. 8-19-05; DFW 37-2011, f. & cert. ef. 5-4-11

## 635-140-0005

### Population Management

In accordance with the Wildlife Policy (ORS 496.012), the primary goal is to restore, maintain and enhance populations of greater sage-grouse such that multiple uses of populations and their habitats can continue. Regional and state population objectives shall be identified based on the best information available.

(1) Policy: Manage greater sage-grouse statewide to maintain or enhance their abundance and distribution at the 2003 spring breeding population level, approximately 30,000 birds over the next 50 years.

(2) Objectives: Consistent with the population management policy, achieve the following regional population objectives:

(a) Baker Resource Area BLM: maintain or enhance greater sage-grouse abundance and distribution at the 2003 spring breeding population level, approximately 2,000 birds.

(b) Vale District BLM (excluding Baker Resource Area BLM): maintain or enhance greater sage-grouse abundance and distribution at the 2003 spring breeding population level, approximately 11,000 birds.

(c) Burns District BLM: maintain or enhance greater sage-grouse abundance and distribution at the 2003 spring breeding population level, approximately 4,300 birds.

(d) Lakeview District BLM: maintain or enhance greater sage-grouse abundance and distribution at the 2003 spring breeding population level, approximately 9,400 birds.

(e) Prineville District BLM: restore greater sage-grouse abundance and distribution near the 1980 spring breeding population level, approximately 3,000 birds.

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

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

Hist.: DFW 94-2005, f. & cert. ef. 8-19-05; DFW 37-2011, f. & cert. ef. 5-4-11

## 635-140-0010

### Habitat Objectives

(1) The habitat goals are to:

(a) Maintain or enhance the distribution of sagebrush habitats within greater sage-grouse range in Oregon; and

(b) Manage those habitats in a variety of structural stages to benefit greater sage-grouse.

(2) Policy: Manage a minimum of 70% of greater sage-grouse range for sagebrush habitat in advanced structural stages, sagebrush class 3, 4 or 5, with an emphasis on classes 4 and 5. The remaining approximately 30% includes areas of juniper encroachment, non-sagebrush shrubland, and

grassland and should be managed to increase available habitat within greater sage-grouse range.

(3) Objective: To maintain and enhance existing sagebrush habitats and enhance potential habitats that have been disturbed such that there is no net loss of sagebrush habitat in the following regions:

(a) Baker Resource Area BLM: 82% sagebrush and 18% disturbed habitats.

(b) Vale District BLM (excluding Baker Resource Area): 70% sagebrush and 30% disturbed habitats.

(c) Burns District BLM: 68% sagebrush and 32% disturbed habitats.

(d) Lakeview District BLM: 72% sagebrush and 28% disturbed habitats.

(e) Prineville District BLM: 47% sagebrush and 53% disturbed habitats.

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

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

Hist.: DFW 94-2005, f. & cert. ef. 8-19-05; DFW 37-2011, f. & cert. ef. 5-4-11

## 635-140-0015

### Core Area Approach to Conservation

Technical terms used in this section are defined in the Glossary of the Greater Sage-Grouse Conservation Assessment and Strategy for Oregon adopted by the Commission on April 22, 2011 (copies of the plan are available through the Oregon Department of Fish and Wildlife).

(1) The goal of establishing core areas is to address greater sage-grouse management from a conservation biology perspective that identifies the most productive populations and habitats that meets all life history needs.

(a) Policy 1. The Department shall develop and maintain maps that identify core area habitats necessary to conserve 90% of Oregon’s greater sage-grouse population with emphasis on highest density and important use areas which provide for breeding, wintering and connectivity corridors. Objective 1. Consistent with Policy 1, the Department shall use the following criteria to define core area habitat. All sagebrush types or other habitats that support greater sage-grouse that are encompassed by areas:

(A) Of very high, high and moderate lek density strata;

(B) Where low lek density strata overlap local connectivity corridors;

or

(C) Where winter habitat-use polygons overlap with either low lek density strata, connectivity corridors, or occupied habitat.

(b) Policy 2. The Department shall develop and maintain maps that identify low density habitat which provide breeding, summer, and migratory habitats of the Oregon statewide greater sage-grouse population. Objective 2. Consistent with Policy 2, the Department shall use the following criteria to define low density habitat. All sagebrush types or other habitats that support greater sage-grouse that are encompassed by areas where:

(A) Low lek density overlapped with seasonal connectivity corridors;

(B) Local corridors occurred outside of all lek density strata;

(C) Low lek density strata occur outside of connectivity corridors; or

(D) Seasonal connectivity corridors occur outside of all lek density strata.

(c) When developing and maintaining the maps referred to in paragraphs (a) and (b) the Department will use:

(A) Local Sage-Grouse Implementation Teams to evaluate the maps and refine exterior boundaries by use of aerial imagery and local knowledge of sage-grouse and sage-grouse habitat; and

(B) Best available science to further understanding of greater sage-grouse life history and conservation needs.

(2) Application of Sage Grouse Core Area and Low Density Habitat Categorizations and Conservation Recommendations.

(a) Policy 1. The Department shall follow the Fish and Wildlife Habitat Mitigation Policy (OAR 635-415-000) when defining habitat categories and providing recommendations to address potential site-level impacts to greater sage-grouse and their habitats.

(b) Policy 2. The Department recommends the following conservation guidelines, incorporated here by reference are the “Action,” “Issue” and “Conservation Guidelines” text from Section V of the Greater Sage-Grouse Conservation Assessment and Strategy for Oregon adopted by the Commission on April 22, 2011 (copies available from the Department):

(A) Wildfire;

(B) Prescribed fire;

(C) Livestock grazing;

(D) Juniper expansion;

(E) Invasive vegetation;

(F) Vegetation treatment;

(G) Realty;

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- (H) Energy development;
- (I) Climate change;
- (J) Recreation;
- (K) Predation;
- (L) West Nile virus; and
- (M) Regulatory.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162  
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162  
Hist.: DFW 37-2011, f. & cert. ef. 5-4-11

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**Rule Caption:** Deadline for Rules Review of Certain Wildlife Management Plans.

**Adm. Order No.:** DFW 38-2011

**Filed with Sec. of State:** 5-4-2011

**Certified to be Effective:** 5-4-11

**Notice Publication Date:** 2-1-2011

**Rules Amended:** 635-160-0000

**Rules Repealed:** 635-120-0020, 635-135-0020, 635-160-0030, 635-170-0015, 635-180-0015, 635-190-0030, 635-195-0010

**Subject:** Repealed rules requiring a deadline for review of certain wildlife management plans.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-160-0000

### Elk Management Plan Content and Purpose

The document entitled "Oregon Elk Management Plan" dated February 2003 is incorporated by reference into these rules. Copies of the plan are available through the Department. The plan provides program direction, identifies objectives, and outlines strategies to fulfill management, research, and habitat needs. Together with the rules establishing elk seasons, this plan establishes the framework and the implementation of the Department's elk program. Notwithstanding the first paragraph on page 1 of the introduction of the Plan (which calls for review of the Elk Management Plan), the Commission will review the Plan when the Commission deems it necessary.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 496.164  
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 496.164  
Hist.: FWC 62-1992, f. & cert. ef. 7-30-92; FWC 13-1995, f. & cert. ef. 2-15-95; DFW 13-2003, f. & cert. ef. 2-14-03; DFW 95-2005, f. & cert. ef. 8-19-05; DFW 38-2011, f. & cert. ef. 5-4-11

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**Rule Caption:** Additional Columbia River Recreational Spring Chinook Season Above Bonneville Dam.

**Adm. Order No.:** DFW 39-2011(Temp)

**Filed with Sec. of State:** 5-5-2011

**Certified to be Effective:** 5-7-11 thru 6-15-11

**Notice Publication Date:**

**Rules Amended:** 635-023-0125

**Rules Suspended:** 635-023-0125(T)

**Subject:** This amended rule provides recreational fishers with four (4) additional days of fishing, from May 7 through May 10, 2011, for adipose fin-clipped Chinook salmon or adipose fin-clipped steelhead in the Columbia River upstream of the Bonneville Dam. This action affects the area 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. Revisions are consistent with action taken May 4, 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 April 8 through April 19, 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 May 1 and May 7 through May 10, 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.

(a) 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; DFW 28-2011(Temp), f. 4-7-11, cert. ef. 4-8-11 thru 6-15-11; DFW 30-2011(Temp), f. 4-15-11, cert. ef. 4-16-11 thru 6-15-11; DFW 33-2011(Temp), f. & cert. ef. 4-21-11 thru 6-15-11; DFW 39-2011(Temp), f. 5-5-11, cert. ef. 5-7-11 thru 6-15-11

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**Rule Caption:** Subsistence Fishing by Nez Perce Tribe Permitted In Columbia River Below Bonneville Dam.

**Adm. Order No.:** DFW 40-2011(Temp)

**Filed with Sec. of State:** 5-5-2011

**Certified to be Effective:** 5-5-11 thru 10-31-11

**Notice Publication Date:**

# ADMINISTRATIVE RULES

**Rules Amended:** 635-041-0005, 635-041-0015, 635-041-0020, 635-041-0025, 635-041-0045

**Subject:** These amended rules permit certain treaty Indian subsistence fisheries in the mainstem of the Columbia River below Bonneville Dam. The modifications are consistent with *Memoranda of Understanding* between the Nez Perce tribe and the Oregon Department of Fish & Wildlife, signed May 3, 2011.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-041-0005

### Applicability of Regulations

(1) The right to fish in accordance with OAR 635-041-0005 through 635-041-0085 is restricted to those individuals possessing Indian treaty fishing rights pursuant to the Yakima Treaty (12 Stat. 951), the Warm Springs Treaty (12 Stat. 963), the Umatilla Treaty (12 Stat. 945), or the Nez Perce Treaty (12 Stat. 957).

(2) The fishing activities authorized by the aforementioned treaties for the Columbia River and its tributaries above Bonneville Dam or as authorized by agreement of parties pursuant to court order in *United States v. Oregon*, in the United States District Court for Oregon, Civil No. 68-513KI (*US v. Oregon*), are hereinafter referred to as the Treaty Indian Fishery.

(3) Nothing in these regulations shall prevent any individual having Indian treaty fishing rights from participating equally with other citizens in any other commercial fishery in Oregon so long as such individual complies with the commercial fishing laws and rules of the Commission applicable to such fishery.

(4) The taking of fish from the Columbia River or its tributaries above Bonneville Dam for commercial purposes is prohibited except by the persons, during the times, with the fishing gear, and in the areas specified in OAR 635-041-0005 through 635-041-0085.

(5) It is *unlawful* for any individual to take fish pursuant to the authority of any of the aforementioned treaties and OAR 635-041-0005 through 635-041-0085 who does not have in his or her possession an Indian tribal identification card which identifies him or her as a duly enrolled member of the Yakima, Warm Springs, Umatilla, or Nez Perce Tribe.

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

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. 3-30-79. Renumbered from 635-035-0005; 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 4-1984, f. & ef. 1-31-84; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 43-2010(Temp), f. & cert. ef. 4-15-10 thru 10-11-10; Administrative correction 10-26-10; DFW 40-2011(Temp), f. & cert. ef. 5-5-11 thru 10-31-11

## 635-041-0015

### Subsistence Fishing Authorized

(1) Subject to the closed area restrictions specified in OAR 635-041-0020, and to the gear restrictions specified in OAR 635-041-0025, subsistence fishing is permitted the year round in the main Columbia River and its Oregon tributaries above Bonneville Dam.

(2) Members of the Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Reservation of Oregon, and the Nez Perce Tribe, as documented by an official tribal enrollment card in possession, may take Chinook, coho, sockeye, steelhead, wall-eye, carp, yellow perch, catfish, bass, and shad for subsistence purposes with the following conditions:

(a) The area open to subsistence fishing is limited to the banks of the Columbia River bounded by a deadline marker on the Oregon bank approximately four miles downstream from Bonneville Dam Powerhouse No. 1 in a straight line through the western tip of Pierce island, to a deadline marker on the Washington bank at Beacon Rock upstream to a point 600 feet downstream of Bonneville Dam, and excluding the following areas:

(A) Between markers located 150 feet upstream and 450 feet downstream from the mouth of Tanner Creek out to the center of the Columbia River during August 16 to October 15;

(B) Inside the south navigation lock at Bonneville Dam from a marker on the western-most point of Robins Island to a marker on the Oregon mainland shore;

(C) From Bradford Island below Bonneville Dam from the south shore between the dam and a line perpendicular to the shoreline marker at west end of riprap and from north shore between fishway entrance and a line perpendicular to the shoreline marker 850 feet downstream; and

(D) From Robins Island below Bonneville Dam downstream to a line perpendicular to the shoreline marker on a mooring cell.

(b) In the area described in section (a) above, subsistence fishing is allowed daily except closed on Thursdays, Fridays and Saturdays when non-tribal salmon or steelhead fishing is allowed in this area.

(c) Allowable gear is limited to dipnet, bagnet, spear, gaff, club, fouling hook, and hook-and-line or other gear as specifically described in the *US v. Oregon* 2008–2017 Management Agreement, or the Memorandum of Understanding among the parties entered pursuant to the *US v. Oregon* Management Agreement.

(d) The sale of salmon and steelhead harvested in the area described in section (a) above is only allowed when commercial sale of platform and hook-and-line caught fish is allowed in Zone 6.

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. Renumbered from 635-035-0015; 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 31-1982(Temp), f. & ef. 5-21-82; FWC 17-1983(Temp), f. & ef. 5-10-83; FWC 4-1984, f. & ef. 1-31-84; FWC 21-1984(Temp), f. & ef. 5-2-84; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 27-1994(Temp), f. & ef. 5-12-94, cert. ef. 5-15-94; FWC 33-1995(Temp), f. & cert. ef. 4-28-95; FWC 47-1995(Temp), f. & cert. ef. 6-5-95; DFW 43-2010(Temp), f. & cert. ef. 4-15-10 thru 10-11-10; Administrative correction 10-26-10; DFW 40-2011(Temp), f. & cert. ef. 5-5-11 thru 10-31-11

## 635-041-0020

### Areas Closed to Subsistence Fishing

Unless specifically authorized under OAR 635-041-0015, it is *unlawful* to engage in subsistence fishing at any time in:

(1) Those waters of the main stem Columbia River near Bonneville Dam westerly and downstream of a line from Light “4” on the Oregon shore, located approximately 200 yards upstream of the mouth of Eagle Creek, thence northerly to Light “5” located on Boat Rock in midriver, thence perpendicular to the thread of the river to a marker on the Washington shore.

(2) Those waters of the main stem Columbia River near The Dalles Dam easterly and upstream from a line at marker on Covington Point on the Oregon shore, thence in a westerly direction to a marker on the Washington shore beneath the Interstate Bridge to a point 200 feet above The Dalles Dam. Subsistence fishing for salmon and steelhead is allowed within this closed area except within 600 feet of fishway entrances, within 600 feet of the mouth of Fifteenmile Creek, and above The Dalles Dam.

(3) Those waters of the main stem Columbia River within a radius of one-quarter mile of the mouths of the Hood River, Deschutes River, Wind River, Little White Salmon River, Spring Creek, and Klickitat River.

(4) Those waters of the main stem Columbia River near John Day Dam from a line at marker on the Oregon shore located 600 feet below the fishway entrance, thence westerly to Light “2” located on the navigation lock wing wall, thence to a marker on the Washington shore easterly and upstream to 200 feet above John Day Dam.

(5) Those waters of the mainstem Columbia River near McNary Dam easterly and upstream from a line at marker on the Oregon shore located 600 feet below the fishway entrance, thence westerly to the end of the navigation lock wing wall, thence to a marker on the Washington shore.

(6) All fishways in Oregon tributary streams of the Columbia River within 100 feet above and below such fishways. This closure does not apply to the taking of lamprey eel so long as such taking does not interfere with the migration of salmon or steelhead through such fishways.

(7) Those waters of Eagle Creek from its mouth to 100 feet above the Department intake Dam.

(8) Those waters of Herman Creek from its mouth to 100 feet above the Department holding ponds.

Stat. Auth.: ORS 183.325 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 133, f. & ef. 8-4-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79. Renumbered from 635-035-0020; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1991, f. & ef. 1-19-81; FWC 12-1981(Temp), f. & ef. 3-31-81; FWC 6-1982, f. & ef. 1-28-82; FWC 4-1984, f. & ef. 1-31-84; 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 10-1988, f. & cert. ef. 3-4-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 90-1989, f. & cert. ef. 9-6-89; DFW 43-2010(Temp), f. & cert. ef. 4-15-10 thru 10-11-10; Administrative correction 10-26-10; DFW 40-2011(Temp), f. & cert. ef. 5-5-11 thru 10-31-11

## 635-041-0025

### Subsistence Fishing Gear

(1) It is lawful at all times to take fish for subsistence purposes by dip net or bag net of a mesh size not exceeding five inches attached to a hoop 26 feet or less in circumference, or by spear, gaff, club, or fouling-hook or other gear specifically allowed pursuant to agreement of the parties to *United States v. Oregon*. All such fishing gear must be tended at all times.

# ADMINISTRATIVE RULES

(2) It is lawful to use angling gear as defined by the Oregon Wildlife Laws and regulations of the Department.

(3) It is *unlawful* to use gill nets, set nets, hoop nets, setlines, or dip nets or bag nets of a mesh size exceeding five inches, or any other type of fishing gear not otherwise specifically authorized in section (1) of this rule, except during the times and in the areas where such gear is authorized for commercial fishing.

(4) Notwithstanding the provisions of this rule a treaty subsistence fishing season with gillnets for salmon may occur provided rules for ceremonial fishing and notice requirement (OAR 635-041-0040) are followed.

Stat. Auth.: ORS 183.325 & 506.119  
Stats. Implemented: ORS 506.129 & 507.030  
Hist.: FWC 89, f. & ef. 1-28-77; FWC 133, f. & ef. 8-4-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0025; 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 4-1984, f. & ef. 1-31-84; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 54-1989 (Temp), f. & cert. ef. 8-7-89; FWC 90-1989, f. & cert. ef. 9-6-89; DFW 43-2010(Temp), f. & cert. ef. 4-15-10 thru 10-11-10; Administrative correction 10-26-10; DFW 40-2011(Temp), f. & cert. ef. 5-5-11 thru 10-31-11

## 635-041-0045

### Closed Commercial Fishing Areas

Unless otherwise specified in this rule and OAR 635-041-0063, the following waters are closed to commercial fishing:

(1) All Oregon tributaries of the Columbia River.

(2) The Columbia River westerly and downstream of the Bridge of the Gods except:

(a) Fisheries conducted by the Yakama, Warm Springs, Umatilla and Nez Perce tribes downstream of Bonneville Dam (bank fishing only) under provisions of the agreements with the states of Oregon and Washington are open until further notice.

(A) Allowable sales include Chinook, steelhead, sockeye, coho, wall-eye, shad, yellow perch, bass and carp. Sturgeon caught in the tribal fisheries below Bonneville Dam may not be retained or sold. Fish may not be sold on USACE property below Bonneville Dam, but may be caught and transported off USACE property for sale.

(B) Gear is restricted to subsistence fishing gear which includes hoop-nets, dipnets, spears, gaffs, clubs, fouling hooks and rod and reel with hook-and-line.

(C) Salmon, steelhead, walleye, shad, carp, bass and yellow perch landed during an open treaty commercial fishing period may be sold at any time.

(b) Platform and hook-and-line fisheries from the Bridge of the Gods downstream to the subsistence fishing deadline as described in OAR 635-041-0020(1) are open to commercial sales whenever sales are authorized for platform and hook-and-line fisheries in the remainder of Bonneville Pool.

(3) The Columbia River easterly and upstream of a line extending at a right angle across the thread of the river from a deadline marker one mile downstream of McNary Dam.

(4) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at the west end of 3-Mile Rapids located approximately 1.8 miles below The Dalles Dam, upstream to a line from a deadline marker on the Oregon shore located approximately 3/4 mile above The Dalles Dam east fishway exit, thence at a right angle to the thread of the river to a point in midriver, thence downstream to Light "1" on the Washington shore; except that dip nets, bag nets, and hoop nets are permitted during commercial salmon and shad fishing seasons at the Lone Pine Indian fishing site located immediately above The Dalles Interstate Bridge.

(5) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at Preachers Eddy light below the John Day Dam and a line approximately 4.3 miles upstream extending from a marker on the Oregon shore approximately one-half mile above the upper easterly bank of the mouth of the John Day River, Oregon, extending at a right angle across the thread of the river to a point in midriver, thence turning downstream to a marker located on the Washington shore approximately opposite the mouth of the John Day River.

(6) The Columbia River within areas at and adjacent to the mouths of the Deschutes River and the Umatilla River. The closed areas are along the Oregon side of the Columbia River and extend out to the midstream from a point one-half mile above the intersection of the upper bank of the tributary with the Columbia River to a point one mile downstream from the intersection of the lower bank of the tributary with the Columbia River. All such points are posted with deadline markers.

(7) The Columbia River within an area and adjacent to the mouth of the Big White Salmon River. The closed area is along the Washington side

of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

(8) The Columbia River within an area at and adjacent to the mouth of Drano Lake (Little White Salmon River). The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upriver of the outlet of Drano Lake.

(9) The Columbia River within an area and adjacent to the mouth of the Wind River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

(10) The Columbia River within areas at and adjacent to the mouth of Hood River. The closed area is along the Oregon side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at end of the breakwall at the west end of the Port of Hood River and 1/2 mile upriver from the east bank.

(11) The Columbia River within a radius of 150 feet of the Spring Creek Hatchery fishway, except that during the period of August 25–September 20 inclusive the closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between a marker located 1-1/2 miles downriver of the Spring Creek Hatchery fishway up to the downstream marker of the Big White Salmon sanctuary located approximately 1/2 mile upriver of the Spring Creek Hatchery fishway.

(12) Herman Creek upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(13) The Columbia River within an area and adjacent to the mouth of the Klickitat River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1-1/8 miles downstream from the west bank.

Stat. Auth.: ORS 183.325, 506.109 & 506.119  
Stats. Implemented: ORS 506.129 & 507.030  
Hist.: FWC 89, f. & ef. 1-28-77; FWC 133, f. & ef. 8-4-77; FWC 149(Temp), f. & ef. 9-21-77 thru 1-18-78; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0045; FWC 6-1980, f. & ef. 1-28-80; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 4-1984, f. & ef. 1-31-84; FWC 55-1985(Temp), f. & ef. 9-6-85; FWC 4-1986 (Temp), f. & ef. 1-28-86; FWC 25-1986(Temp), f. & ef. 6-25-86; FWC 42-1986, f. & ef. 8-15-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 54-1989 (Temp), f. & cert. ef. 8-7-89; FWC 90-1989, f. & cert. ef. 9-6-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 40-2011(Temp), f. & cert. ef. 5-5-11 thru 10-31-11

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**Rule Caption:** Camas-Washougal Reef Commercial Shad Season Opens May 10, 2011.

**Adm. Order No.:** DFW 41-2011(Temp)

**Filed with Sec. of State:** 5-5-2011

**Certified to be Effective:** 5-10-11 thru 6-20-11

**Notice Publication Date:**

**Rules Amended:** 635-042-0110, 635-042-0115

**Subject:** These amended rules open a commercial shad season in the Columbia River in the area of Camas-Washougal Reef. The fishery is from 8:00 p.m. to 12:00 Midnight, Mondays through Fridays (except on the observed Memorial Day holiday) beginning May 10 through June 20, 2011. All salmon, steelhead, walleye, and sturgeon taken in shad nets must be immediately returned unharmed to the water. Further modifications allow harvest using experimental gear when purchasing an *Experimental Fishing Gear Permit* as described in OAR 635-006-0020. Revisions are consistent with action taken on May 4, 2011 by the Columbia River Compact agencies of Oregon and Washington.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-042-0110

### Gary Island to Bonneville Dam (Area 2S) Shad Season

(1) Shad may be taken for commercial purposes from the area of the Columbia River described in section (2) from 3:00 p.m. to 10:00 p.m. daily,

# ADMINISTRATIVE RULES

Monday through Friday (except on the observed Memorial Day holiday), from May 10 through June 20.

(2) The area of the Columbia River open to fishing is from a downstream boundary of a true north/south line through the flashing red 4 second Light "50" near the Oregon bank to an upstream boundary of a straight line from a deadline marker on the Oregon bank, through the western tip of Pierce Island, to a deadline marker on the Washington bank at Beacon Rock, both such deadline markers located approximately four miles downstream from Bonneville Dam.

(3) It is *unlawful* to use a gillnet having a mesh size less than 5 3/8 inches or more than 6 1/4 inches with a breaking strength greater than a 10-pound pull, or to use a gillnet other than a single wall floater net, or to use a gillnet having slackers, or to use a gillnet of more than 150 fathoms in length or 40 meshes in depth. Rip lines are authorized spaced not closer than 20 corks apart.

(4) All salmon, steelhead, walleye and sturgeon taken in shad nets must be immediately returned unharmed to the water.

(5) Shad may also be taken and sold for commercial purposes with experimental fishing gears.

(a) A permit issued by the Department as described in OAR 635-006-0020 is required to use experimental gear types for shad.

(b) Conditions under which shad may be taken and sold for commercial purposes will be specified in the permit.

(c) Any salmon, steelhead or non-target species taken as incidental catch in operation of such gear shall immediately, with care and the least possible injury, be released and transferred to the water without violence.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 85, f. & ef. 1-28-77; FWC 116(Temp), f. & ef. 6-1-77 thru 6-3-77; FWC 124(Temp), f. & ef. 6-17-77 thru 10-14-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 27-1978(Temp), f. & ef. 5-26-78 thru 9-22-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0275; FWC 6-1980, f. & ef. 1-28-80; FWC 25-1980(Temp), f. & ef. 6-13-80; FWC 1-1981, f. & ef. 1-19-81; FWC 18-1981(Temp), f. & ef. 6-10-81; FWC 6-1982, f. & ef. 1-28-82; FWC 36-1982 (Temp), f. & ef. 6-11-82; FWC 2-1983, f. & ef. 1-21-83, ef. 2-1-83; FWC 21-1983(Temp), f. & ef. 6-10-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 19-1985, f. & ef. 5-1-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 16-1986 (Temp), f. & ef. 5-23-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 23-1987(Temp), f. & ef. 5-20-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. & cert. ef. 2-7-89; FWC 15-1990(Temp), f. & cert. ef. 2-9-90; FWC 20-1990, f. & cert. ef. 3-6-90; FWC 10-1991, f. & cert. ef. 2-7-91, cert. ef. 2-8-91; FWC 8-1992, f. & cert. ef. 2-11-92; FWC 34-1992(Temp), f. & cert. ef. 5-20-92; FWC 11-1993, f. & cert. ef. 2-16-93; FWC 9-1994, f. & cert. ef. 2-15-94; FWC 15-1995, f. & cert. ef. 2-15-95; FWC 6-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 36-2000(Temp), f. & cert. ef. 6-28-00, cert. ef. 6-28-00 thru 7-1-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 39-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 45-2005(Temp), f. & cert. ef. 5-17-05, cert. ef. 5-23-05 thru 10-16-05; DFW 63-2005(Temp), f. & cert. ef. 6-29-05 thru 7-31-05; Administrative correction 11-18-05; 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; Administrative correction 8-22-06; DFW 7-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 18-2008(Temp), f. & cert. ef. 5-12-08 thru 11-7-08; DFW 68-2008(Temp), f. & cert. ef. 6-21-08 thru 8-31-08; Administrative correction 9-29-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 59-2009(Temp), f. & cert. ef. 5-27-09, cert. ef. 6-1-09 thru 6-19-09; Administrative correction 7-21-09; DFW 34-2010, f. & cert. ef. 4-1-10; DFW 41-2011(Temp), f. & cert. ef. 5-10-11 thru 6-20-11

## 635-042-0115

### Camas-Washougal Reef Shad Season

(1) Shad may be taken for commercial purposes from the area of the Columbia River described in section (2) daily from 8:00 p.m. to 12:00 Midnight, Monday through Friday (except on the observed Memorial Day holiday) from May 10 through June 20, 2011.

(2) The area of the Columbia River open to fishing is from a line commencing at the white 6 second equal-interval light approximately 3/4 mile east of the Washougal Woolen Mill pipeline and projected westerly to the Washougal blinker light; thence continuing westerly to the 4 second blinker light on the east end of Lady Island; thence easterly and northerly along the shoreline of Lady Island to the State Highway 14 Bridge; thence easterly across State Highway 14 Bridge to the mainland.

(3) It is *unlawful* to use a gill net having a mesh size less than 5 3/8 inches or more than 6-1/4 inches with a breaking strength greater than a 30 pound pull or to use a gill net other than a single wall floater net, or to use a gill net having slackers.

(4) All salmon, steelhead, walleye, and sturgeon taken in shad nets must be immediately returned unharmed to the water.

(5) Shad may also be taken and sold for commercial purposes with experimental fishing gears.

(a) A permit issued by the Department as described in OAR 635-006-0020 is required to use experimental gear types for shad.

(b) Conditions under which shad may be taken and sold for commercial purposes will be specified in the permit.

(c) Any salmon, steelhead or non-target species taken as incidental catch in operation of such gear shall immediately, with care and the least possible injury, be released and transferred to the water without violence.

Stat. Auth.: ORS 183.325 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 85, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 27-1978(Temp), f. & ef. 5-26-78 thru 9-22-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0280; 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. & ef. 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 16-1986(Temp), f. & ef. 5-23-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 23-1987(Temp), f. & ef. 5-20-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. & cert. ef. 2-7-89; FWC 15-1990(Temp), f. & cert. ef. 2-9-90; FWC 20-1990, f. & cert. ef. 3-6-90; FWC 10-1991, f. & cert. ef. 2-8-91; FWC 8-1992, f. & cert. ef. 2-11-92; FWC 11-1993, f. & cert. ef. 2-16-93; FWC 9-1994, f. & cert. ef. 2-15-94; FWC 36-1994(Temp), f. & cert. ef. 6-20-94; FWC 39-1994(Temp), f. & cert. ef. 6-27-94; FWC 15-1995, f. & cert. ef. 2-15-95; FWC 6-1996, f. & cert. ef. 2-7-96; FWC 24-1996, f. & cert. ef. 5-14-96; FWC 4-1997, f. & cert. ef. 1-30-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 41-2011(Temp), f. & cert. ef. 5-10-11 thru 6-20-11

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**Rule Caption:** Hood River Open All Year for Adipose Fin-clipped Coho Salmon and Steelhead.

**Adm. Order No.:** DFW 42-2011(Temp)

**Filed with Sec. of State:** 5-10-2011

**Certified to be Effective:** 5-10-11 thru 10-31-11

**Notice Publication Date:**

**Rules Amended:** 635-018-0090

**Rules Suspended:** 635-018-0090(T)

**Subject:** Amended rule allows sport harvest of adipose fin-clipped spring Chinook in the Hood River through June 30; and harvest of adipose fin-clipped coho salmon and adipose fin-clipped steelhead in the Hood River through October 31, 2011. Catch limit is two adult adipose fin-clipped Chinook salmon per day, and five adipose fin-clipped jack Chinook salmon per day. The Oregon Fish and Wildlife Commission is scheduled to consider these modifications to permanent rule at its August 5, 2011 hearing.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-018-0090

### Inclusions and Modifications

(1) The **2011 Oregon Sport Fishing Regulations** provide requirements for the Central Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2011 Oregon Sport Fishing Regulations**.

(2) The Hood River is open from the mouth to mainstem confluence with the East Fork and the West Fork from the confluence with the mainstem upstream to the angling deadline 200 feet downstream of Punchbowl Falls to retention of:

(a) Adipose fin-clipped coho salmon and adipose fin-clipped steelhead from January 1 through December 31. The catch limit is two adult adipose fin-clipped salmon or steelhead per day and five adipose fin-clipped jack salmon per day, with the exception that one additional adipose fin-clipped steelhead may be retained per day for a total aggregate of 3 adult fish harvested daily; and

(b) Adipose fin-clipped Chinook salmon from April 15 through June 30, 2011. The catch limit is two adult adipose fin-clipped Chinook salmon per day and five adipose fin-clipped jack salmon per day.

(c) All salmon and steelhead that have not been adipose fin-clipped must be released unharmed. All other catch limits and restrictions remain unchanged from those listed for Hood River in the 2011 Oregon Sport Fishing Regulations.

(3) The Deschutes River from the mouth at the I-84 Bridge upstream to Sherars Falls is open to angling for trout, steelhead, and adipose fin-clipped Chinook salmon from April 15 through July 31, 2011.

(a) The catch limit is one adult adipose fin-clipped salmon and five adipose fin-clipped jack salmon per day. All non-adipose fin-clipped Chinook salmon must be released unharmed.

(b) It is unlawful to continue angling from Sherars Falls downstream to the upper railroad trestle after taking a daily bag limit of one adult Chinook salmon.

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

Stat. Auth.: ORS 496.138 & 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 82-1993, f. & cert. ef. 1-1-94; FWC 20-1994(Temp), f. & cert. ef. 4-11-94; FWC 24-1994(Temp), f. & cert. ef. 4-30-94; FWC 34-1994(Temp), f. & cert. ef. 6-14-94



# ADMINISTRATIVE RULES

cert. ef. 6-16-94; FWC 54-1994, f. 8-25-94, cert. ef. 9-1-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 67-1994(Temp), f. & cert. ef. 9-26-94; FWC 70-1994, f. 10-4-95, cert. ef. 11-1-94; FWC 18-1995, f. 3-2-95, cert. ef. 4-1-95; FWC 60-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 11-1996(Temp), f. 3-8-96, cert. ef. 4-1-96; FWC 32-1996(Temp), f. 6-7-96, cert. ef. 6-16-96; FWC 38-1996(Temp), f. 6-14-96, cert. ef. 7-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 20-1997, f. & cert. ef. 3-24-97; FWC 21-1997, f. & cert. ef. 4-1-97; FWC 27-1997(Temp), f. 5-2-97, cert. ef. 5-9-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 25-1998(Temp), f. & cert. ef. 3-25-98 thru 8-31-98; DFW 56-1998(Temp), f. 7-24-98, cert. ef. 8-1-98 thru 10-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 12-2000(Temp), f. 3-20-00, cert. ef. 4-15-00 thru 7-31-00; DFW 27-2000(Temp), f. 5-15-00, cert. ef. 8-1-00 thru 10-31-00; DFW 28-2000, f. 5-23-00, cert. ef. 5-24-00 thru 7-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 13-2001(Temp), f. 3-12-01, cert. ef. 4-7-01 thru 7-31-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 44-2001(Temp), f. 5-25-01, cert. ef. 6-1-01 thru 7-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 23-2002(Temp), f. 3-21-02, cert. ef. 4-6-02 thru 7-31-02; DFW 25-2002(Temp), f. 3-22-02, cert. ef. 4-6-02 thru 7-31-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 62-2002, f. 6-14-02, cert. ef. 7-11-02; DFW 74-2002(Temp), f. 7-18-02, cert. ef. 8-1-02 thru 10-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 97-2002(Temp), f. & cert. ef. 8-29-02 thru 10-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 26-2003(Temp), f. 3-28-03, cert. ef. 4-15-03 thru 7-31-03; DFW 66-2003(Temp), f. 7-17-03, cert. ef. 8-1-03 thru 10-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 23-2004(Temp), f. 3-22-04, cert. ef. 4-1-04 thru 7-31-04; DFW 77-2004(Temp), f. 7-28-04, cert. ef. 8-1-04 thru 10-31-04, Administrative correction 11-22-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 19-2005(Temp), f. 3-16-05, cert. ef. 4-15-05 thru 7-31-05; DFW 41-2005(Temp), f. 5-13-05, cert. ef. 5-15-05 thru 7-31-05; DFW 83-2005(Temp), f. 7-29-05, cert. ef. 8-1-05 thru 10-31-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 59-2006(Temp), f. 7-10-06, cert. ef. 8-1-06 thru 10-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 18-2007(Temp), f. 3-22-07, cert. ef. 4-15-07 thru 7-31-07; DFW 55-2007(Temp), f. 7-6-07, cert. ef. 8-1-07 thru 10-31-07; Administrative correction 11-17-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 26-2008(Temp), f. 3-17-08, cert. ef. 4-15-08 thru 7-31-08; DFW 27-2008(Temp), f. 3-24-08, cert. ef. 5-1-08 thru 10-27-08; Administrative correction 11-18-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 16-2009(Temp), f. 2-25-09, cert. ef. 4-15-09 thru 6-30-09; DFW 61-2009(Temp), f. 6-1-09, cert. ef. 8-1-09 thru 10-31-09; DFW 104-2009(Temp), f. 8-28-09, cert. ef. 9-1-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 7-2010(Temp), f. 1-25-10, cert. ef. 4-1-10 thru 7-31-10; DFW 27-2010(Temp), f. 3-8-10, cert. ef. 4-15-10 thru 7-31-10; DFW 66-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 10-31-10; DFW 86-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 10-31-10; DFW 106-2010(Temp), f. 7-26-10, cert. ef. 8-1-10 thru 12-31-10; DFW 164-2010(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 16-2011(Temp), f. 2-16-11, cert. ef. 4-15-11 thru 7-31-11; DFW 17-2011(Temp), f. 2-17-11, cert. ef. 4-15-11 thru 7-31-11; DFW 42-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11

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**Rule Caption:** Columbia River Treaty Indian Spring Commercial Salmon Seasons Implemented.

**Adm. Order No.:** DFW 43-2011(Temp)

**Filed with Sec. of State:** 5-10-2011

**Certified to be Effective:** 5-10-11 thru 10-31-11

**Notice Publication Date:**

**Rules Amended:** 635-041-0045, 635-041-0076

**Rules Suspended:** 635-041-0045(T)

**Subject:** This amended rule allows the sales of fish caught in the Treaty Indian spring Chinook salmon commercial platform hook-and-line fisheries in the Columbia River mainstem and tributaries above Bonneville Dam beginning at 6:00 p.m. Tuesday, May 10, 2011 until further notice. The amended rule also closes sales of Treaty fisheries downstream of Bonneville Dam effective May 15 through June 16, 2011. Revisions are consistent with action taken May 10, 2011 by the Columbia River Compact agencies of Oregon and Washington in cooperation with the Columbia River Treaty Tribes.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-041-0045

### Closed Commercial Fishing Areas

Unless otherwise specified in this rule and OAR 635-041-0063, the following waters are closed to commercial fishing:

(1) All Oregon tributaries of the Columbia River.

(2) The Columbia River westerly and downstream of the Bridge of the Gods except:

(a) Fisheries conducted by the Yakama, Warm Springs, Umatilla and Nez Perce tribes downstream of Bonneville Dam (bank fishing only) under provisions of the agreements with the states of Oregon and Washington are open until 8:00 p.m. Saturday, May 14, 2011 when they will close and will remain closed through midnight June 15, 2011. The fisheries reopen June 16, 2011 further notice.

(A) Allowable sales include Chinook, steelhead, sockeye, coho, wall-eye, shad, catfish, yellow perch, bass and carp. Sturgeon caught in the tribal fisheries below Bonneville Dam may not be retained or sold. Fish may

not be sold on USACE property below Bonneville Dam, but may be caught and transported off USACE property for sale.

(B) Gear is restricted to subsistence fishing gear which includes hoop-nets, dipnets, spears, gaffs, clubs, fouling hooks and rod and reel with hook-and-line.

(C) Salmon, steelhead, walleye, shad, carp, bass and yellow perch landed during an open treaty commercial fishing period may be sold at any time.

(b) Platform and hook-and-line fisheries from the Bridge of the Gods downstream to the subsistence fishing deadline as described in OAR 635-041-0020(1) are open to commercial sales whenever sales are authorized for platform and hook-and-line fisheries in the remainder of Bonneville Pool.

(3) The Columbia River easterly and upstream of a line extending at a right angle across the thread of the river from a deadline marker one mile downstream of McNary Dam.

(4) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at the west end of 3-Mile Rapids located approximately 1.8 miles below The Dalles Dam, upstream to a line from a deadline marker on the Oregon shore located approximately 3/4 mile above The Dalles Dam east fishway exit, thence at a right angle to the thread of the river to a point in midriver, thence downstream to Light "1" on the Washington shore; except that dip nets, bag nets, and hoop nets are permitted during commercial salmon and shad fishing seasons at the Lone Pine Indian fishing site located immediately above The Dalles Interstate Bridge.

(5) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at Preachers Eddy light below the John Day Dam and a line approximately 4.3 miles upstream extending from a marker on the Oregon shore approximately one-half mile above the upper easterly bank of the mouth of the John Day River, Oregon, extending at a right angle across the thread of the river to a point in midriver, thence turning downstream to a marker located on the Washington shore approximately opposite the mouth of the John Day River.

(6) The Columbia River within areas at and adjacent to the mouths of the Deschutes River and the Umatilla River. The closed areas are along the Oregon side of the Columbia River and extend out to the midstream from a point one-half mile above the intersection of the upper bank of the tributary with the Columbia River to a point one mile downstream from the intersection of the lower bank of the tributary with the Columbia River. All such points are posted with deadline markers.

(7) The Columbia River within an area and adjacent to the mouth of the Big White Salmon River. The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

(8) The Columbia River within an area at and adjacent to the mouth of Drano Lake (Little White Salmon River). The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upriver of the outlet of Drano Lake.

(9) The Columbia River within an area and adjacent to the mouth of the Wind River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located 1-1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

(10) The Columbia River within areas at and adjacent to the mouth of Hood River. The closed area is along the Oregon side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at end of the breakwall at the west end of the Port of Hood River and 1/2 mile upriver from the east bank.

(11) The Columbia River within a radius of 150 feet of the Spring Creek Hatchery fishway, except that during the period of August 25–September 20 inclusive the closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between a marker located 1 1/2 miles downriver of the Spring Creek Hatchery fishway up to the downstream marker of the Big White Salmon sanctuary located approximately 1/2 mile upriver of the Spring Creek Hatchery fishway.

(12) Herman Creek upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

# ADMINISTRATIVE RULES

(13) The Columbia River within an area and adjacent to the mouth of the Klickitat River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1-1/8 miles downstream from the west bank.

Stat. Auth.: ORS 183.325, 506.109 & 506.119  
Stats. Implemented: ORS 506.129 & 507.030  
Hist.: FWC 89, f. & cert. 1-28-77; FWC 133, f. & cert. 8-4-77; FWC 149(Temp), f. & cert. 9-21-77 thru 1-18-78; FWC 2-1978, f. & cert. 1-31-78; FWC 7-1978, f. & cert. 2-21-78; FWC 2-1979, f. & cert. 1-25-79, Renumbered from 635-035-0045; FWC 6-1980, f. & cert. 1-28-80; FWC 44-1980(Temp), f. & cert. 8-22-80; FWC 1-1981, f. & cert. 1-19-81; FWC 6-1982, f. & cert. 1-28-82; FWC 49-1983(Temp), f. & cert. 9-26-83; FWC 4-1984, f. & cert. 1-31-84; FWC 55-1985(Temp), f. & cert. 9-6-85; FWC 4-1986 (Temp), f. & cert. 1-28-86; FWC 25-1986(Temp), f. & cert. 6-25-86; FWC 42-1986, f. & cert. 8-15-86; FWC 2-1987, f. & cert. 1-23-87; FWC 10-1988, f. & cert. 3-4-88; FWC 54-1989 (Temp), f. & cert. 8-7-89; FWC 90-1989, f. & cert. 9-6-89; FWC 80-1990(Temp), f. & cert. 8-8-90; DFW 142-2008, f. & cert. 11-21-08; DFW 23-2011, f. & cert. 3-21-11; DFW 40-2011(Temp), f. & cert. 5-5-11 thru 10-31-11; DFW 43-2011(Temp), f. & cert. 5-10-11 thru 10-31-11

## 635-041-0076

### Spring Salmon Season

(1) Commercial sales of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River are allowed beginning 6:00 p.m. Tuesday, May 10, 2011 until further notice.

(a) Chinook, steelhead, sockeye, coho, walleye, shad, carp, bass, catfish and yellow perch landed during an open commercial fishing period may be sold at any time or retained for subsistence. Sturgeon may not be sold or retained. However, white sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools and white sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may be kept for subsistence use.

(b) Gear is restricted to subsistence fishing gear: hoopnets, dipnets and rod and reel with hook-and-line are allowed.

(c) Closed areas in Zone 6, except the Spring Creek sanctuary, are as set forth in OAR 635-041-0045 and remain in effect.

(2) Sales of fish caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake; and Big White Salmon River are allowed during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods and concurrent with periods when sales from Zone 6 platform and hook-and-line fisheries are allowed.

Stat. Auth.: ORS 496.118 & 506.119  
Stats. Implemented: ORS 506.109, 506.129 & 507.030  
Hist.: DFW 5-2006, f. & cert. 2-15-06; DFW 39-2006(Temp), f. & cert. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. 6-20-06 thru 7-31-06; DFW 49-2006(Temp), f. & cert. 6-27-06 thru 7-31-06; DFW 56-2006(Temp), f. & cert. 7-3-06 thru 7-31-06; DFW 58-2006(Temp), f. & cert. 7-10-06 thru 7-31-06; Administrative correction 8-22-06; DFW 46-2007(Temp), f. & cert. 6-15-07, cert. 6-16-07 thru 9-13-07; DFW 49-2007(Temp), f. & cert. 6-22-07, cert. 6-26-07 thru 9-13-07; DFW 53-2007(Temp), f. & cert. 6-7-07 thru 7-31-07; Administrative correction 9-16-07; DFW 45-2008(Temp), f. & cert. 5-2-08, cert. 5-5-08 thru 7-31-08; DFW 47-2008(Temp), f. & cert. 5-9-08, cert. 5-11-08 thru 7-31-08; DFW 62-2008(Temp), f. & cert. 6-13-08, cert. 6-16-08 thru 8-31-08; DFW 68-2008(Temp), f. & cert. 6-20-08, cert. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. & cert. 6-27-08, cert. 6-28-08 thru 8-31-08; DFW 80-2008(Temp), f. & cert. 7-10-08 thru 8-31-08; DFW 87-2008(Temp), f. & cert. 7-25-08 thru 8-31-08; DFW 94-2008(Temp), f. & cert. 8-14-08 thru 9-30-08; Administrative correction 10-21-08; DFW 50-2009(Temp), f. & cert. 5-16-09 thru 7-31-09; DFW 56-2009(Temp), f. & cert. 5-26-09, cert. 5-27-09 thru 7-31-09; DFW 71-2009(Temp), f. & cert. 6-15-09, cert. 6-16-09 thru 7-31-09; DFW 76-2009(Temp), f. & cert. 6-26-09, cert. 6-30-09 thru 7-31-09; DFW 82-2009(Temp), f. & cert. 7-6-09, cert. 7-8-09 thru 7-31-09; DFW 84-2009(Temp), f. & cert. 7-13-09, cert. 7-15-09 thru 7-31-09; Administrative correction 8-21-09; DFW 48-2010(Temp), f. & cert. 4-26-10, cert. 4-27-10 thru 7-31-10; DFW 51-2010(Temp), f. & cert. 4-29-10 thru 7-31-10; DFW 56-2010(Temp), f. & cert. 5-10-10, cert. 5-11-10 thru 7-31-10; DFW 68-2010(Temp), f. & cert. 5-18-10, cert. 5-19-10 thru 7-31-10; DFW 71-2010(Temp), f. & cert. 5-19-10, cert. 5-21-10 thru 6-16-10; DFW 74-2010(Temp), f. & cert. 6-2-10 thru 7-31-10; DFW 80-2010(Temp), f. & cert. 6-14-10, cert. 6-16-10 thru 7-31-10; DFW 87-2010(Temp), f. & cert. 6-25-10, cert. 6-29-10 thru 7-31-10; DFW 97-2010(Temp), f. & cert. 7-8-10, cert. 7-13-10 thru 7-31-10; DFW 101-2010(Temp), f. & cert. 7-19-10, cert. 7-20-10 thru 7-31-10; DFW 105-2010(Temp), f. & cert. 7-23-10, cert. 7-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 43-2011(Temp), f. & cert. 5-10-11 thru 10-31-11

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**Rule Caption:** 2011 Select Area Seasons for Tongue Point/South Channel and Blind/Knapa Sloughs Modified.

**Adm. Order No.:** DFW 44-2011(Temp)

**Filed with Sec. of State:** 5-11-2011

**Certified to be Effective:** 5-11-11 thru 6-10-11

**Notice Publication Date:**

**Rules Amended:** 635-042-0160, 635-042-0170

**Rules Suspended:** 635-042-0160(T), 635-042-0170(T)

**Subject:** Amended rules rescind Columbia River Select Area commercial fishing periods previously scheduled to begin Thursday, May 12 from 7:00 p.m. to 7:00 a.m. the following morning. Modifications rescheduled these fishing periods for the same time beginning May 11, 2011. Modifications are consistent with the action taken May 11,

2011 by the Columbia River Compact agencies of Oregon and Washington.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-042-0160

### Blind Slough and Knapa 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 Knapa 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 Knapa 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 Knapa Sloughs: Monday and Thursday nights from 7:00 p.m. to 7:00 a.m. (12 hours) beginning Monday, April 18 through April 20; Monday and Thursday nights from 7:00 p.m. to 7:00 a.m. (12 hours) beginning Thursday, April 28 through Monday, May 9, 2011; Wednesday, May 11, 2011 from 7:00 p.m. to 7:00 a.m. (12 hours); and Monday and Thursday nights from 7:00 p.m. to 7:00 a.m. (12 hours) beginning Monday, May 16 through Thursday, June 9, 2011 (14 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) Knapa 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 Knapa 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 and 507.030  
Hist.: FWC 46-1996, f. & cert. 8-23-96; FWC 48-1997, f. & cert. 8-25-97; DFW 15-1998, f. & cert. 3-3-98; DFW 67-1998, f. & cert. 8-24-98; DFW 86-1998(Temp), f. & cert. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. 2-26-99; DFW 48-1999(Temp), f. & cert. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. 8-12-99; DFW 9-2000, f. & cert. 8-25-00; DFW 42-2000, f. & cert. 8-3-00; DFW 65-2000(Temp) f. & cert. 9-22-00, cert. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. 2-6-01; DFW 84-2001(Temp), f. & cert. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. & cert. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. 2-14-03; DFW 34-2003(Temp), f. & cert. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. 4-30-03, cert. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. 2-13-04; DFW 19-2004(Temp), f. & cert. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. &

# ADMINISTRATIVE RULES

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; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11

## 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 deadline), 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 Thursday, April 28 through Monday, May 9, 2011; Wednesday, May 11, 2011 from 7:00 p.m. to 7:00 a.m. the next morning; Monday and Thursday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning Monday, May 16 through Thursday, June 9, 2011 (13 nights).

(4) Gear restrictions are as follows:

(a) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is *unlawful* to use a gill net having a mesh size that is more than 9.75-inches. While fishing during the seasons described in this rule, gillnets with lead line in excess of two pounds per fathom may be stored on boats.

(b) In waters described in section (2) as South Channel, nets are restricted to 100 fathoms in length with no weight restrictions on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is *unlawful* to use a gill net having a mesh size that is more than 9.75-inches. While fishing during the seasons described in this rule, gillnets up to 250 fathoms in length may be stored on boats.

(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 10, 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 11, 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. 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; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11

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**Rule Caption:** Commercial Drift Net Fishing Period for Spring Chinook In the Columbia River Mainstem.

**Adm. Order No.:** DFW 45-2011(Temp)

**Filed with Sec. of State:** 5-12-2011

**Certified to be Effective:** 5-12-11 thru 6-30-11

**Notice Publication Date:**

**Rules Amended:** 635-042-0022

**Subject:** Amended rule allows a 14-hour non-Indian commercial spring Chinook fishing period in the mainstem Columbia River beginning at 3:00 p.m. Thursday, May 12 through 5:00 a.m. Friday, May 13, 2011. Fishing is authorized in Zones 1 through 4, from the river mouth upstream to Kelly Point. Modifications are consistent with joint state action taken May 11, 2011 by the Columbia River Compact agencies of Oregon and Washington.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-042-0022

### Spring Chinook Gillnet and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook and sockeye salmon, white sturgeon and shad may be taken by drift net for commercial purposes from the mouth of the Columbia River upstream to Kelley Point (Zones 1 3 and part of Zone 4 on Thursday, May 12 from 3:00 p.m. to Friday, May 13, 2011 at 5:00 a.m. (14 hours).

(a) Individual fishing periods will not exceed sixteen hours in length during small mesh fisheries.

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(b) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fisheries are open. The weekly white sturgeon sales limit applies to the mainstem fishery only.

(c) Retention of green sturgeon is prohibited.

(2) An adipose fin clip salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring Chinook gillnet fishery:

(a) It is unlawful to use a gillnet having a mesh size less than 8 inches or more than 9-3/4 inches.

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(4).

(4) During the spring Chinook drift net fishery:

(a) It is *unlawful* to use other than a drift net with 8-inch minimum mesh size. Monofilament tangle nets are allowed. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Other permanent gear regulations remain in effect.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(5) Nets shall not exceed 900 feet (150 fathoms) in length. 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.

(6) On tangle nets, an optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4-1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submerged corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4-1/4 inch maximum mesh size tangle net.

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in section (5) above, must have two red corks at each end of the net.

(7) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(8) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(9) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(10) It is *unlawful* for a net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished.

(11) It is *unlawful* to fish more than one net from a licensed commercial fishing boat at any one time.

(12) Nets fished from sunset to sunrise shall have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required.

(13) Non-legal sturgeon, nonadipose fin-clipped Chinook salmon, and steelhead must be released immediately with care and the least possible

injury to the fish to the river without violence or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked.

(b) Non-adipose fin-clipped salmon and all steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39-1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to the Department and Washington Department of Fish and Wildlife employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1-3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(14) At least one fisher on each boat engaged in the fishery must have attended a one-day workshop hosted by the Department or Washington Department of Fish and Wildlife to educate fishers on regulations and best methods for conduct of the fishery.

(15) Nothing in this section sets any precedent for any future spring Chinook fishery. The fact that an individual has attended a live capture training workshop does not entitle the individual to participate in any other fishery. If the Department authorizes a Live Capture fishery in the spring or at any other time, the Department may establish qualifications and requirements that are different from those already established. In particular, the Department may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future Live Capture fisheries.

(16) As authorized by OAR-635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery.

(17) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B sanctuary, Abernathy Creek, Cowlitz River, Kalama-B sanctuary, and Lewis-B sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp), f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. & cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. & cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 7-31-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 7-31-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. & cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. & cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. & cert. ef. 3-13-06, cert. ef. 3-14-06 thru 7-31-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 30-2006(Temp), f. & cert. ef. 5-18-06 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; Administrative correction 8-22-06; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 17-2007(Temp), f. & cert. ef. 3-20-07 thru 9-15-07; DFW 19-2007(Temp), f. & cert. ef. 3-22-07 thru 9-17-07; DFW 44-2007(Temp), f. & cert. ef. 6-14-07 thru 9-17-07; Administrative correction 9-18-07; DFW 31-2008(Temp), f. & cert. ef. 3-31-08, cert. ef. 4-1-08 thru 9-27-08; DFW 33-2008(Temp), f. & cert. ef. 4-7-08, cert. ef. 4-8-08 thru 9-27-08; DFW 34-2008(Temp), f. & cert. ef. 4-15-08 thru 9-27-08; Suspended by DFW 71-2008(Temp), f. & cert. ef. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 10-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 30-2009(Temp), f. & cert. ef. 3-23-09, cert. ef. 3-27-09 thru 4-30-09; DFW 34-2009(Temp), f. & cert. ef. 4-6-09, cert.

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ef. 4-7-09 thru 4-30-09; DFW 36-2009(Temp), f. 4-13-09, cert. ef. 4-14-09 thru 4-30-09; Administrative correction 5-20-09; DFW 38-2010(Temp), f. & cert. ef. 3-30-10 thru 4-30-10; DFW 41-2010(Temp), f. 4-6-10, cert. ef. 4-7-10 thru 4-30-10; Administrative correction 5-19-10; DFW 25-2011(Temp), f. & cert. ef. 3-29-11 thru 4-1-11; DFW 27-2011(Temp), f. 4-5-11, cert. ef. 4-6-11 thru 4-10-11; Administrative correction, 4-25-11; DFW 45-2011(Temp), f. & cert. ef. 5-12-11 thru 6-30-11

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**Rule Caption:** Retention of Non-adipose Fin-clipped Chinook Salmon Prohibited for 81-Hours in Youngs Bay.

**Adm. Order No.:** DFW 46-2011(Temp)

**Filed with Sec. of State:** 5-12-2011

**Certified to be Effective:** 5-12-11 thru 7-29-11

**Notice Publication Date:**

**Rules Amended:** 635-042-0145

**Rules Suspended:** 635-042-0145(T)

**Subject:** Amended rule prohibits the commercial harvest of non-adipose fin-clipped spring Chinook for an 81-hour period in the Youngs Bay Select Area fishery beginning at 3:00 p.m. Thursday, May 12 through midnight Sunday, May 15, 2011. Modifications are consistent with joint state action taken May 11, 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. From 3:00 p.m. Thursday, May 12 through midnight Sunday, May 15, 2011 retention of non-adipose fin-clipped Chinook salmon is prohibited.

(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); 4:00 p.m. to 9:00 p.m. Thursday, April 28 (5 hours); 4:00 p.m. to 9:00 p.m. Sunday, May 1, 2011 (5 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. & cert. ef. 8-22-79; FWC 28-1980, f. & cert. ef. 6-23-80; FWC 42-1980(Temp), f. & cert. ef. 8-22-80; FWC 30-1981, f. & cert. ef. 8-14-81; FWC 42-1981(Temp), f. & cert. ef. 11-5-81; FWC 54-1982, f. & cert. ef. 8-17-82; FWC 37-1983, f. & cert. ef. 8-18-83; FWC 61-1983(Temp), f. & cert. ef. 10-19-83; FWC 42-1984, f. & cert. ef. 8-20-84; FWC 39-1985, f. & cert. ef. 8-15-85; FWC 37-1986, f. & cert. ef. 8-11-86; FWC 72-1986(Temp), f. & cert. ef. 10-31-86; FWC 64-1987, f. & cert. ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 8-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; 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; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11; DFW 46-2011(Temp), f. & cert. ef. 5-12-11 thru 7-29-11

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**Rule Caption:** 2011–2012 Harvest Specifications and Management Measures for Pacific Ocean Commercial Groundfish Fisheries.

# ADMINISTRATIVE RULES

**Adm. Order No.:** DFW 47-2011(Temp)

**Filed with Sec. of State:** 5-13-2011

**Certified to be Effective:** 5-13-11 thru 11-8-11

**Notice Publication Date:**

**Rules Amended:** 635-004-0019

**Rules Suspended:** 635-004-0019(T)

**Subject:** This amended rule adopts 2011-2012 harvest specifications and management measures adopted by the federal government for Pacific ocean commercial groundfish fisheries, including but not limited to: (a) changes in cumulative trip limits and RCA boundaries for commercial groundfish fisheries; (b) changes in annual catch limits and allocations of groundfish for the various commercial groundfish fisheries, and (c) changes to other management measures.

**Rules Coordinator:** Therese Kucera—(503) 947-6033

## 635-004-0019

### Inclusions and Modifications

(1) OAR chapter 635, division 4, modifies or is in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subpart G, West Coast Groundfish Fisheries.**

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart G,** provides requirements for commercial groundfish fishing in the Pacific Ocean off the Oregon coast. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the **Code of Federal Regulations.**

(3) Notwithstanding the regulations as defined in OAR 635-004-0018, the National Oceanic and Atmospheric Administration (NOAA), by means of Federal Register/Vol. 75, No. 162/Monday, August 23, 2010, announced inseason management measures effective August 18, 2010, including, but not limited to, changes to cumulative trip limits for the limited entry fixed-gear sablefish fishery and lincod retention allowances for vessels fishing in the salmon troll fishery and operating outside of the non-trawl RCA.

(4) Notwithstanding the regulations as defined in OAR 635-004-0018, the National Oceanic and Atmospheric Administration (NOAA), by means of Federal Register/Vol. 75, No. 191/Monday, October 4, 2010, announced inseason management measures effective October 1, 2010, including, but not limited to, changes to cumulative trip limits for the limited entry non-whiting trawl fishery.

(5) Notwithstanding the regulations as defined in OAR 635-004-0018, the National Oceanic and Atmospheric Administration (NOAA), by means of Federal Register/Vol. 75, No. 232/Friday, December 3, 2010, announced inseason management measures effective December 1, 2010, including, but not limited to, changes in cumulative trip limits and RCA boundaries for limited entry non-whiting trawl fisheries and cumulative trip limits for commercial fixed gear fisheries.

(6) Notwithstanding the regulations as defined in OAR 635-004-0018, the National Oceanic and Atmospheric Administration (NOAA), by means of National Marine Fisheries Service (NMFS) Public Notice/NMFS-SEA-10-22/December 27, 2010, announced inseason adjustments and new management measures effective January 1, 2010, including, but not limited to:

(a) Temporary closure of the limited entry trawl fishery;

(b) Replacement of previously used trip limit tables for limited entry trawl gear with incidental landing allowances for vessels registered to a Federal limited entry trawl permit and using groundfish trawl or groundfish non-trawl gears to harvest individual fishing quota (IFQ) species;

(c) Adjustment of the trawl RCA; and

(d) Adjustments to RCAs and cumulative trip limits for the limited entry and open access fixed-gear fisheries.

(7) Notwithstanding the regulations as defined in OAR 635-004-0018, the National Oceanic and Atmospheric Administration (NOAA), by means of National Marine Fisheries Service (NMFS) Public Notice/NMFS-SEA-11-01/January 7, 2011, announced inseason adjustments effective January 11, 2011, including, but not limited to, the start of the Trawl Rationalization Program; fishing will begin under the Shorebased Individual Fishing Quota (IFQ) Program on January 11, 2011.

(8) Notwithstanding, the regulations as defined in OAR 635-004-0018, the National Marine Fisheries Service (NMFS), by means of Federal Register/Vol. 76, No. 41/Wednesday, March 2, 2011, announced inseason management measures effective March 1, 2011, including, but not limited to:

(a) Changes in cumulative trip limits and RCA boundaries for commercial fixed gear fisheries; and

(b) The annual tier limits for the limited entry fixed gear sablefish primary fishery north of 36o N. Latitude.

(9) Notwithstanding, the regulations as defined in OAR 635-004-0018, the National Marine Fisheries Service (NMFS), by means of Federal Register/Vol. 76, No.91/Wednesday, May 11, 2011, announced the 2011–2012 harvest specifications for most of the species in the groundfish fishery and management measures for that fishery off the coasts of Washington, Oregon, and California effective May 11, 2011, including, but not limited to:

(a) Changes in cumulative trip limits and RCA boundaries for commercial groundfish fisheries;

(b) Changes in annual catch limits and allocations of groundfish for the various commercial groundfish fisheries; and

(c) Changes to other management measures.

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

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 76-1999(Temp), f. 9-30-99, cert. ef. 10-1-99 thru 12-31-99; DFW 81-1999(Temp), f. & cert. ef. 10-12-99 thru 12-31-99; DFW 98-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 23-2005(Temp), F. & cert. ef. 4-8-05 thru 10-4-05; DFW 30-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 43-2005(Temp), f. & cert. ef. 5-13-05 thru 10-17-05; DFW 68-2005(Temp), 6-30-05, cert. ef. 7-1-05 thru 12-27-05; DFW 114-2005(Temp), f. 9-30-05, cert. ef. 10-1-05 thru 12-31-05; DFW 125-2005(Temp), f. & cert. ef. 10-19-05 thru 12-31-05; DFW 134-2005(Temp), f. & cert. ef. 11-30-05 thru 12-31-05; DFW 147-2005(Temp), f. 12-28-05, cert. ef. 1-1-06 thru 6-28-06; DFW 8-2006(Temp), f. 2-28-06, cert. ef. 3-1-06 thru 8-25-06; DFW 25-2006(Temp), f. & cert. ef. 5-1-06 thru 10-27-06; DFW 55-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-27-06; DFW 110-2006(Temp), f. 9-29-06, cert. ef. 10-1-06 thru 12-31-06; Administrative Correction 1-16-07; DFW 29-2007(Temp), f. & cert. ef. 5-1-07 thru 10-27-07; DFW 58-2007(Temp), f. 7-18-07, cert. ef. 8-1-07 thru 12-31-07; DFW 106-2007(Temp), f. 10-5-07, cert. ef. 10-6-07 thru 12-31-07; DFW 123-2007(Temp), f. 11-26-07, cert. ef. 11-28-07 thru 12-31-07; DFW 126-2007(Temp), f. & cert. ef. 12-11-07 thru 12-31-07; DFW 41-2008(Temp), f. 4-23-08, cert. ef. 5-1-08 thru 10-27-08; DFW 88-2008(Temp), f. & cert. ef. 8-1-08 thru 12-31-08; DFW 146-2008(Temp), f. & cert. ef. 12-4-08 thru 12-31-08; DFW 1-2009(Temp), f. & cert. ef. 1-5-09 thru 5-1-09; DFW 29-2009(Temp), f. & cert. ef. 3-18-09 thru 5-1-09; DFW 41-2009(Temp), f. 4-29-09, cert. ef. 5-1-09 thru 10-27-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 81-2009(Temp), f. & cert. ef. 7-2-09 thru 12-28-09; DFW 136-2009, f. 10-28-09 thru 12-31-09; DFW 138-2009(Temp), f. & cert. ef. 11-2-09 thru 12-31-09; Administrative correction 1-25-10; DFW 25-2010(Temp), f. & cert. ef. 3-3-10 thru 8-29-10; DFW 59-2010(Temp), f. & cert. ef. 5-12-10 thru 11-7-10; DFW 109-2010(Temp), f. & cert. ef. 7-30-10 thru 11-30-10; DFW 122-2010(Temp), f. & cert. ef. 8-25-10 thru 11-30-10; DFW 138-2010(Temp), f. & cert. ef. 10-4-10 thru 12-31-10; DFW 157-2010, f. 12-6-10, cert. ef. 1-1-11; DFW 160-2010(Temp), f. & cert. ef. 12-7-10 thru 12-31-10; DFW 167-2010(Temp), f. 12-29-10, cert. ef. 1-1-11 thru 1-31-11; DFW 2-2011(Temp), f. & cert. ef. 1-11-11 thru 7-9-11; DFW 20-2011(Temp), f. & cert. ef. 3-3-11 thru 8-29-11; DFW 47-2011(Temp), f. & cert. ef. 5-13-11 thru 11-8-11

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**Rule Caption:** Columbia River Recreational Spring Chinook Season Opens From Rocky/Tongue Point to Beacon Rock.

**Adm. Order No.:** DFW 48-2011(Temp)

**Filed with Sec. of State:** 5-13-2011

**Certified to be Effective:** 5-15-11 thru 6-15-11

**Notice Publication Date:**

**Rules Amended:** 635-023-0125

**Rules Suspended:** 635-023-0125(T)

**Subject:** This amended rule opens the Columbia River from the Rocky Point/Tongue Point line upstream to Beacon Rock (boat and bank fishing) plus bank angling only from Beacon Rock upstream to Bonneville Dam beginning on May 15, 2011. Retention of sockeye adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead is allowed. Daily bag limit includes up to two adult salmon (including sockeye) or steelhead in combination, but only one may be a Chinook. Revisions are consistent with action taken May 13, 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.

# ADMINISTRATIVE RULES

(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) Effective through June 15, 2011, in Oregon and Washington Select Areas the hatchery adult Chinook daily bag limit will be the same as the adjacent mainstem Columbia River when the mainstem is open for adult Chinook retention. When the adjacent mainstem Columbia River is closed for adult retention, the salmon daily limit will revert to permanent rules.

(4)(a) The Columbia River is open May 15 through June 15, 2011 from Rocky Point/Tongue Point upstream to Beacon Rock (boat and bank angling); plus bank angling only from Beacon Rock upstream to Bonneville Dam. Legal boundary for Beacon Rock is defined as: "A line projected from a sign posted on a dock on the Oregon shoreline across to the exposed downstream end of Pierce Island, then across to a sign posted on the Washington shoreline at Beacon Rock." Retention of sockeye, adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead is allowed. Sockeye salmon count towards the adult limit regardless of size.

(b) Catch limits of two adult adipose fin-clipped salmon/steelhead per day in combination, of which only one may be a Chinook.

(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; DFW 28-2011(Temp), f. 4-7-11, cert. ef. 4-8-11 thru 6-15-11; DFW 30-2011(Temp), f. 4-15-11, cert. ef. 4-16-11 thru 6-15-11; DFW 33-2011(Temp), f. & cert. ef. 4-21-11 thru 6-15-11; DFW 39-2011(Temp), f. 5-5-11, cert. ef. 5-7-11 thru 6-15-11; DFW 48-2011(Temp), f. 5-13-11, cert. ef. 5-15-11 thru 6-15-11

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

**Rule Caption:** Disability Determination Services Rates of Payment – Medical.

**Adm. Order No.:** SPD 9-2011

**Filed with Sec. of State:** 4-29-2011

**Certified to be Effective:** 5-1-11

**Notice Publication Date:** 4-1-2011

**Rules Adopted:** 411-200-0035

**Rules Amended:** 411-200-0010, 411-200-0020, 411-200-0030, 411-200-0040

**Subject:** The Department of Human Services, Seniors and People with Disabilities Division, Disability Determination Services is permanently amending the rules relating to rates of payment in OAR chapter 411, division 200.

**Rules Coordinator:** Christina Hartman—(503) 945-6398

### 411-200-0010

#### General Policy

(1) The Department of Human Services (Department) shall reimburse the vendor, consultant, and contractor for the cost of goods and services only if the Department has authorized payment before the provision of goods and services. The Department shall reject all invoices for goods and services without the required prior authorization.

(2) Except as provided in OAR 411-200-0030 and OAR 411-200-0035, the amount that the Department pays the vendor, consultant, and contractor for previously authorized medical or psychological services is:

(a) For vendor: The rates set forth in OAR 411-200-0030.

(b) For consultant:

(A) The lesser of the lowest fee that the consultant charges the general public or other state or federal agencies for the service; or

(B) The maximum fee prescribed by the Oregon Medical Fee and Relative Value Schedule, OAR chapter 436, division 009.

(c) For contractor: The contracted rate. The contracted rate may not exceed the maximum fee filed and prescribed by the Oregon Medical Fee and Relative Value Schedule, OAR chapter 436, division 009.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SDDS 4-2002, f. & cert. ef. 6-12-02; SPD 13-2003, f. & cert. ef. 7-1-03; SPD 7-2004, f. 3-23-04 cert. ef. 3-24-04; SPD 19-2004, f. & cert. ef. 6-23-04; SPD 12-2005, f. & cert. ef. 9-26-05; SPD 12-2006, f. 3-23-06, cert. ef. 4-1-06; SPD 9-2011, f. 4-29-11, cert. ef. 5-1-11

### 411-200-0020

#### Definitions

(1) "Brief Narrative" means a document that summarizes claimant treatment to date and current status, responds briefly to three to five specific questions posed by the Department, if any, and is usually one or two pages.

(2) "Comprehensive Narrative" means a document that describes an extended claimant history, addresses six or more specific topics, and is usually three or more pages.

(3) "Consultant" means an individual whose professional credentials per the policy of the Social Security Administration identify the individual either as an acceptable medical source, qualified medical source, or certified translator.

(4) "Contractor" means a consultant who has entered into a contract with the Department to provide identified services for specific fees as detailed in the contract. A contractor who provides services not covered by the contract is paid as a consultant under the payment limitations of these rules.

(5) "Department" means the Department of Human Services.

(6) "DDS" means the Disability Determination Services program within the Department, funded by and subject to the disability rating rules of the Social Security Administration.

(7) "These Rules" mean the rules in OAR chapter 411, division 200.

(8) "Vendor" means an individual or entity (such as hospitals, clinics, private practices) that provide medical evidence of record or other services at the Department's request and may, at the Department's request and with the Department's prior authorization, provide a brief or comprehensive narrative of medical treatment for the Department's review.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SDDS 4-2002, f. & cert. ef. 6-12-02; SPD 12-2005, f. & cert. ef. 9-26-05; SPD 12-2006, f. 3-23-06, cert. ef. 4-1-06; SPD 9-2011, f. 4-29-11, cert. ef. 5-1-11

### 411-200-0030

#### Medical Evidence of Record (MER) and Narrative Charges

(1) Except as provided by section (4) of this rule, the Department shall pay the lesser of the following fees for existing medical records when requested by the Department:

(a) The lowest fee that the vendor charges the general public or other state or federal agencies for the records; or

(b) When the invoice itemizes the number of pages provided:

(A) For 10 or fewer pages, \$18.00;

(B) For 11-20 pages, \$18.00 for the first 10 pages plus \$0.25 per page for each additional page;

# ADMINISTRATIVE RULES

(C) For 21-40 pages, \$20.50 for the first 20 pages plus \$0.10 per page for each additional page; and

(D) For more than 40 pages, a maximum payment of \$22.50.

(c) If the invoice does not itemize the number of pages provided, the Department shall pay a total maximum payment of \$18.00.

(2) Additional payment may not be made to a vendor for second or subsequent requests when the information to be provided was available at the time the original request was processed.

(3) Records provided by a vendor, whether held in multiple locations or by multiple sources, shall be paid as a single record request regardless of whether the records are electronic or paper form, or both.

(4) When the Department receives the requested records within 10 days from the date of the Department's record request, the Department shall pay the vendor an additional \$5.00. Time shall be measured from the date indicated on the Department's written request until the date that the Department receipts the copies.

(5) The Department shall pay the vendor the amount billed up to a maximum payment of \$35.00 for a brief narrative summarizing the medical treatment when requested by the Department.

(6) The Department shall pay the vendor the amount billed up to a maximum payment of \$75.00 for a comprehensive narrative summarizing the medical treatment when requested by the Department.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SDSA 4-2002, f. & cert. ef. 6-12-02; SPD 12-2005, f. & cert. ef. 9-26-05; SPD 12-2006, f. 3-23-06, cert. ef. 4-1-06; SPD 9-2011, f. 4-29-11, cert. ef. 5-1-11

## 411-200-0035

### Consultative Examination (CE) and Related Charges

(1) Except as provided in section (2) of this rule, the Department shall pay the lesser of the following fees for examinations and lab work when requested and pre-authorized by the Department:

(a) The lowest fee charged the general public or other state or federal agencies for the service; or

(b) The maximum fee filed and prescribed by the Oregon Medical Fee and Relative Value Schedule, OAR chapter 436, division 009.

(2) With prior written approval by a DDS manager, the Department may exceed the fee described in section (1) of this rule when financial or human considerations outweigh the difference in cost. Such considerations may include examinations in a remote geographic area or logistical concerns.

(3) The Department shall reimburse a consultant a fee of \$90.00 for the preparation time invested by the consultant prior to a DDS scheduled examination if the claimant does not appear within 15 minutes of the scheduled start time and, as a result, the examination cannot be performed.

(4) The Department shall reimburse a consultant or a contractor a fee of \$90.00 in the event DDS requests a records review for the Office of Disability and Adjudication Review (ODAR) prior to a DDS scheduled examination.

(5) No additional fees shall be reimbursed for certain scheduled services (e.g., blood work only, x-rays, lab tests, PFT's, treadmills) where no preparation time is required.

(6) The Department shall reimburse a consultant a fee of \$90.00 for other specific scheduled services (e.g., audiograms, Batelle) where preparation is required.

(7) The Department shall use the maximum and interpreter fees in OAR chapter 436, division 009 to reimburse a consultant the round-trip mileage to attend an examination only if the mileage exceeds 60 miles round-trip. The consultant must be a certified translator that provides interpreter services.

Stat. Auth.: ORS 409.050 410.070

Stats. Implemented: ORS 344.511 - 344.690 & 410.070

Hist.: SPD 9-2011, f. 4-29-11, cert. ef. 5-1-11

## 411-200-0040

### Limitations of Payments

(1) A vendor, consultant, or contractor who has entered into a price agreement or contract with one part of the Department to provide identified services must provide the same services at the same price to the Department if requested.

(2) The vendor must accept the fees prescribed by these rules as payment in full. If a vendor's usual and customary fee for a service exceeds the fee prescribed by these rules, the client or the client's family may not be liable to the vendor for any portion of a vendor's usual and customary fee unless the client or the client's family agrees in writing to assume the additional charges. Without such explicit agreement, the vendor must accept the Department's payment as payment in full.

(3) No fee shall be paid to the consultant or contractor if DDS cancels an appointment more than 24 hours in advance of the appointed time.

(4) A contractor who provides authorized services that are not covered by the contract shall be treated as a consultant for purposes of reimbursement for those services and is subjected to the payment limitations set forth in these rules applicable to consultants.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070

Hist.: SDSA 4-2002, f. & cert. ef. 6-12-02; SPD 12-2005, f. & cert. ef. 9-26-05; SPD 12-2006, f. 3-23-06, cert. ef. 4-1-06; SPD 9-2011, f. 4-29-11, cert. ef. 5-1-11

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**Rule Caption:** Support Services for Adults with Developmental Disabilities.

**Adm. Order No.:** SPD 10-2011

**Filed with Sec. of State:** 5-5-2011

**Certified to be Effective:** 5-5-11

**Notice Publication Date:** 4-1-2011

**Rules Amended:** 411-340-0030, 411-340-0040, 411-340-0120

**Rules Repealed:** 411-340-0030(T), 411-340-0040(T), 411-340-0060(T), 411-340-0120(T)

**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 permanently amending various support services rules in OAR chapter 411, division 340 to change:

- The certification period for support services brokerages and provider organizations; and
- The specific internal brokerage operations around the routing of written incident reports, the approval of revisions to the Individual Support Plan (ISP), and the required review of ISPs.

**Rules Coordinator:** Christina Hartman—(503) 945-6398

## 411-340-0030

### Certification of Support Services Brokerages and Provider Organizations

(1) CERTIFICATE REQUIRED.

(a) No person or governmental unit acting individually or jointly with any other person or governmental unit may establish, conduct, maintain, manage, or operate a brokerage without being certified by the Division under this rule.

(b) No person or governmental unit acting individually or jointly with any other person or governmental unit may establish, conduct, maintain, or operate a provider organization without either certification under this rule or current Division license or certification as described in OAR 411-340-0170(1).

(c) Certificates are not transferable or assignable and are issued only for the brokerage, or for the provider organization requiring certification under OAR 411-340-0170(2), and persons or governmental units named in the application.

(d) Certificates issued on or after November 15, 2008 shall be in effect for a maximum of five years.

(e) The Division shall conduct a review of the brokerage, or the provider organization requiring certification under OAR 411-340-0170(2), prior to the issuance of a certificate.

(2) CERTIFICATION. A brokerage, or a provider organization requiring certification under OAR 411-340-0170(2), must apply for an initial certificate and for a certificate renewal.

(a) The application must be on a form provided by the Division and must include all information requested by the Division.

(b) The applicant requesting certification as a brokerage must identify the maximum number of individuals to be served.

(c) To renew certification, the brokerage or provider organization must make application at least 30 days but not more than 120 days prior to the expiration date of the existing certificate. On renewal of brokerage certification, no increase in the maximum number of individuals to be served by the brokerage may be certified unless specifically approved by the Division.

(d) Application for renewal must be filed no more than 120 days prior to the expiration date of the existing certificate and shall extend the effective date of the existing certificate until the Division takes action upon the application for renewal.

(e) Failure to disclose requested information on the application or providing incomplete or incorrect information on the application may result in denial, revocation, or refusal to renew the certificate.



# ADMINISTRATIVE RULES

(f) Prior to issuance or renewal of the certificate, the applicant must demonstrate to the satisfaction of the Division that the applicant is capable of providing services identified in a manner consistent with the requirements of these rules.

## (3) CERTIFICATION EXPIRATION, TERMINATION OF OPERATIONS, OR CERTIFICATE RETURN.

(a) Unless revoked, suspended, or terminated earlier, each certificate to operate a brokerage or provider organization shall expire on the expiration date specified on the certificate.

(b) If a certified brokerage or provider organization is discontinued, the certificate automatically terminates on the date operation is discontinued.

(4) CHANGE OF OWNERSHIP, LEGAL ENTITY, LEGAL STATUS, OR MANAGEMENT CORPORATION. The brokerage, or provider organization requiring certification under OAR 411-340-0170(2), must notify the Division in writing of any pending action resulting in a 5 percent or more change in ownership and of any pending change in the brokerage's or provider organization's legal entity, legal status, or management corporation.

(5) NEW CERTIFICATE REQUIRED. A new certificate for a brokerage or provider organization is required upon change in a brokerage's or provider organization's ownership, legal entity, or legal status. The brokerage or provider organization must submit a certificate application at least 30 days prior to change in ownership, legal entity, or legal status.

(6) CERTIFICATE DENIAL, REVOCATION, OR REFUSAL TO RENEW. The Division may deny, revoke, or refuse to renew a certificate when the Division finds the brokerage or provider organization, the brokerage or provider organization director, or any person holding 5 percent or greater financial interest in the brokerage or provider organization:

(a) Demonstrates substantial failure to comply with these rules such that the health, safety, or welfare of individuals is jeopardized and the brokerage or provider organization fails to correct the noncompliance within 30 calendar days of receipt of written notice of non-compliance;

(b) Has demonstrated a substantial failure to comply with these rules such that the health, safety, or welfare of individuals is jeopardized during two inspections within a six year period (for the purpose of this rule, "inspection" means an on-site review of the service site by the Division for the purpose of investigation or certification);

(c) Has been convicted of a felony or any crime as described in OAR 407-007-0275;

(d) Has been convicted of a misdemeanor associated with the operation of a brokerage or provider organization;

(e) Falsifies information required by the Division to be maintained or submitted regarding services of individuals, program finances, or individuals' funds;

(f) Has been found to have permitted, aided, or abetted any illegal act that has had significant adverse impact on individual health, safety, or welfare; or

(g) Has been placed on the current Centers for Medicare and Medicaid Services list of excluded or debarred providers.

(7) NOTICE OF CERTIFICATE DENIAL, REVOCATION, OR REFUSAL TO RENEW. Following a Division finding that there is a substantial failure to comply with these rules such that the health, safety, or welfare of individuals is jeopardized, or that one or more of the events listed in section (6) of this rule has occurred, the Division may issue a notice of certificate revocation, denial, or refusal to renew.

(8) IMMEDIATE SUSPENSION OF CERTIFICATE. When the Division finds a serious and immediate threat to individual health and safety and sets forth the specific reasons for such findings, the Division may, by written notice to the certificate holder, immediately suspend a certificate without a pre-suspension hearing and the brokerage or provider organization may not continue operation.

(9) HEARING. An applicant for a certificate or a certificate holder may request a hearing pursuant to the contested case provisions of ORS chapter 183 upon written notice from the Division of denial, suspension, revocation, or refusal to renew a certificate. In addition to, or in lieu of a hearing, the applicant or certificate holder may request an administrative review by the Division's Assistant Director. An administrative review does not preclude the right of the applicant or certificate holder to a hearing.

(a) The applicant or certificate holder must request a hearing within 60 days of receipt of written notice by the Division of denial, suspension, revocation, or refusal to renew a certificate. The request for a hearing must include an admission or denial of each factual matter alleged by the Division and must affirmatively allege a short plain statement of each relevant, affirmative defense the applicant or certificate holder may have.

(b) In the event of a suspension pursuant to section (8) of this rule and during the first 30 days after the suspension of a certificate, the brokerage or provider organization may submit a written request to the Division for an administrative review. The Division shall conduct the review within 10 days after receipt of the request for an administrative review. Any review requested after the end of the 30-day period following certificate suspension shall be treated as a request for hearing under subsection (a) of this section. If following the administrative review the suspension is upheld, the brokerage or provider organization may request a hearing pursuant to the contested case provisions of ORS chapter 183.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 427.005, 427.007, & 430.610 - 430.695

Hist.: MHD 9-2001(Temp), f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 5-2002, f. 2-26-02 cert. ef. 2-27-02; Renumbered from 309-041-1770, SPD 22-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 8-2005, f. & cert. ef. 6-23-05; SPD 17-2006, f. 4-26-06, cert. ef. 5-1-06; SPD 8-2008, f. 6-27-08, cert. ef. 6-29-08; SPD 8-2009, f. & cert. ef. 7-1-09; 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 25-2010(Temp), f. & cert. ef. 11-17-10 thru 5-16-11; SPD 10-2011, f. & cert. ef. 5-5-11

## 411-340-0040

### Abuse and Unusual Incidents in Support Services Brokerages and Provider Organizations

(1) ABUSE PROHIBITED. No adult or individual as defined in OAR 411-340-0020 shall be abused nor shall any employee, staff, or volunteer of the brokerage or provider organization condone abuse.

(a) Brokerages and provider organizations must have in place appropriate and adequate disciplinary policies and procedures to address instances when a staff member has been identified as an accused person in an abuse investigation as well as when the allegation of abuse has been substantiated.

(b) All employees of a brokerage or provider organization are mandatory reporters. The brokerage or provider organization must:

(A) Notify all employees of mandatory reporting status at least annually on forms provided by the Department; and

(B) Provide all employees with a Department-produced card regarding abuse reporting status and abuse reporting.

#### (2) INCIDENT REPORTS.

(a) A brokerage or provider organization must prepare an incident report for instances of potential or suspected abuse or an unusual incident as defined in OAR 411-340-0020, involving an individual and a brokerage or provider organization employee. The incident report must be placed in the individual's record and must include:

(A) Conditions prior to or leading to the potential or suspected abuse or unusual incident;

(B) A description of the potential or suspected abuse or unusual incident;

(C) Staff response at the time; and

(D) Review by the brokerage administration and follow-up to be taken to prevent recurrence of the potential or suspected abuse or unusual incident.

(b) A brokerage or provider organization must send copies of all incident reports involving potential or suspected abuse that occurs while an individual is receiving brokerage or provider organization services to the CDDP.

(c) A provider organization must send copies of incident reports of all potential or suspected abuse or unusual incidents that occur while the individual is receiving services from a provider organization to the individual's brokerage within five working days of the potential or suspected abuse or unusual incident.

#### (3) IMMEDIATE NOTIFICATION

(a) The brokerage must immediately report to the CDDP, and the provider organization must immediately report to the CDDP with notification to the brokerage, any incident or allegation of potential or suspected abuse falling within the scope of OAR 407-045-0260.

(A) When an abuse investigation has been initiated, the CDDP must provide notice according to OAR 407-045-0290.

(B) When an abuse investigation has been completed, the CDDP must provide notice of the outcome of the investigation according to OAR 407-045-0320.

(b) In the case of emergency overnight hospitalization due to illness or injury to an individual, the brokerage or provider organization must immediately notify:

(A) The individual's legal representative, parent, next of kin, designated contact person, or other significant person; and

(B) In the case of the provider organization, the individual's brokerage.

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(c) In the event of the death of an individual, the brokerage or provider organization must immediately notify:

(A) The Medical Director of the Division;

(B) The individual's legal representative, parent, next of kin, designated contact person, or other significant person;

(C) The CDDP; and

(D) In the case of a provider organization, the individual's brokerage.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 427.005, 427.007, & 430.610 - 430.695

Hist.: MHD 9-2001(Temp), f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 5-2002, f. 2-26-02 cert. ef. 2-27-02; MHD 4-2003(Temp), f. & cert. ef. 7-1-03 thru 12-27-03; Renumbered from 309-041-1780, SPD 22-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 8-2005, f. & cert. ef. 6-23-05; SPD 17-2006, f. 4-26-06, cert. ef. 5-1-06; SPD 8-2008, f. 6-27-08, cert. ef. 6-29-08; SPD 8-2009, f. & cert. ef. 7-1-09; 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 25-2010(Temp), f. & cert. ef. 11-17-10 thru 5-16-11; SPD 10-2011, f. & cert. ef. 5-5-11

## 411-340-0120

### Support Service Brokerage Services

(1) Each brokerage must provide or arrange for the following services as required to meet individual support needs:

(a) Assistance for individuals to determine needs, plan supports in response to needs, and develop individualized budgets based on available resources;

(b) Assistance for individuals to find and arrange the resources to provide planned supports;

(c) Assistance with development and expansion of community resources required to meet the support needs of individuals served by the brokerage;

(d) Information, education, and technical assistance for individuals to use to make informed decisions about support needs and to direct providers;

(e) Fiscal intermediary services in the receipt and accounting of support services funds on behalf of an individual in addition to making payment to providers with the authorization of the individual;

(f) Employer-related supports; and

(g) Assistance for individuals to effectively put plans into practice, including help to monitor and improve the quality of supports as well as assess and revise plan goals.

(2) SELF-DETERMINATION. Brokerages must apply the principles of self-determination to provision of services required in section (1) of this rule.

(3) PERSON-CENTERED PLANNING. A brokerage must use a person-centered planning approach to assist individuals to establish outcomes, determine needs, plan for supports, and review and redesign support strategies.

(4) HEALTH AND SAFETY ISSUES. The planning process must address basic health and safety needs and supports including but not limited to:

(a) Identification of risks, including risk of serious neglect, intimidation, and exploitation;

(b) Informed decisions by the individual or the individual's legal representative regarding the nature of supports or other steps taken to ameliorate any identified risks; and

(c) Education and support to recognize and report abuse.

(5) MEDICAID WAIVERS. The brokerage must assure that individuals who become eligible for Medicaid after entry into the brokerage are offered the choice of home and community-based waiver services, provided a notice of fair hearing rights, and have a completed Title XIX Waiver form that is reviewed annually or at any time there is a significant change.

(6) WRITTEN PLAN REQUIRED.

(a) Unless circumstances allow exception under subsection (b) of this section, the personal agent must write an ISP dated within 90 days of an individual's entry into brokerage services and at least annually thereafter. A written copy of the most current ISP must be provided to the individual and the individual's legal representative. The ISP or attached documents must include:

(A) The individual's name;

(B) A description of the supports required, including the reason the support is necessary;

(C) Projected dates of when specific supports are to begin and end;

(D) Projected costs, with sufficient detail to support estimates;

(E) A list of personal, community, and public resources that are available to the individual and how they shall be applied to provide the required supports;

(F) The providers, or when the provider is unknown or is likely to change frequently, the type of provider (i.e. independent provider, provider

organization, or general business provider), of supports to be purchased with support services funds;

(G) Schedule of ISP reviews; and

(H) Any revisions to paragraphs (A) to (G) of this section that may alter:

(i) The amount of support services funds required;

(ii) The amount of support services required;

(iii) Types of support purchased with support services funds; and

(iv) The type of support provider.

(b) The schedule of the support services ISP developed in compliance with section (3) of this rule after an individual enters a brokerage may be adjusted one time for any individual entering a brokerage in certain circumstances. Such an adjustment shall interrupt any plan year in progress and establish a new plan year for the individual beginning on the date the first new ISP is authorized. Circumstances where this adjustment is permitted include:

(A) Brokerages, with the consent of the individual, may designate a new ISP start date.

(i) This adjustment may only occur one time per individual upon ISP renewal.

(ii) The individual's benefit level must be pro-rated based on the shortened plan year in order to not exceed the annual benefit level for which the individual is eligible.

(iii) ISP date adjustments shall be clearly documented on the ISP.

(B) Transition of individuals receiving family support services for children with developmental disabilities regulated by OAR chapter 411, division 305, children's intensive in-home services (CIIS) regulated by OAR chapter 411, division 300, or medically fragile children (MFC) services regulated by OAR chapter 411, division 350, when those individuals are 18 years of age. The date of the individual's first new support services ISP after enrollment in the brokerage may be adjusted to correspond to the expiration date of the individual's Annual Plan of Care in place at the time the individual turns 18 years of age when the Annual Plan of Care, developed while the individual is still receiving family support, CIIS, or MFC services, has been authorized for implementation prior to or upon the individual's enrollment in the brokerage.

(C) Transition of individuals receiving other Division-paid services who are required by the Division to transition to support services. The date of the individual's first support services ISP may be adjusted to correspond to the expiration date of the individual's plan for services when the plan for services:

(i) Has been developed according to regulations governing Division-paid services the individual receives prior to transition;

(ii) Is current at the time designated by the Division for transition to support services; and

(iii) Is authorized for implementation prior to or upon the individual's enrollment in the brokerage.

(7) PROFESSIONAL OR OTHER SERVICE PLANS.

(a) A Nursing Care Plan must be attached to the ISP when support services funds are used to purchase services requiring the education and training of a licensed professional nurse.

(b) A Support Services Brokerage Plan of Care Crisis Addendum, or other document prescribed by the Division for use in these circumstances, must be attached when an individual enrolled in a brokerage:

(A) Has been determined by the CDDP of the individual's county of residence as eligible for crisis diversion services according to OAR 411-320-0160; and

(B) Is in emergent status in a short-term out-of-home residential placement as part of the individual's crisis diversion services. This short-term plan must be coordinated by staff of the CDDP of the individual's county of residence.

(8) INDIVIDUAL SERVICE PLAN AUTHORIZATION.

(a) An initial and annual ISP must be authorized prior to implementation.

(b) A revision to the annual or initial ISP that involves the types of support purchased with support services funds must be authorized prior to implementation.

(c) A revision to the annual or initial ISP that does not involve the types of support purchased with support services funds does not require authorization. Documented verbal agreement to the revision by the individual or the individual's legal representative is required prior to implementation of the revision.

(d) An ISP is authorized when:

(A) The signature of the individual or the individual's legal representative is present on the ISP or documentation is present explaining the rea-

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son an individual who does not have a legal representative may be unable to sign the ISP.

(i) Acceptable reasons for an individual without a legal representative not to sign the ISP include physical or behavioral inability to sign the ISP.

(ii) Unavailability of the individual is not an acceptable reason for the individual or the individual's legal representative not to sign the ISP.

(iii) In the case of a revision to the initial or annual ISP that is in response to immediate, unexpected change in circumstance, and is necessary to prevent injury or harm to the individual, documented verbal agreement may substitute for a signature for no more than 10 working days.

(B) The signature of the personal agent involved in the development of, or revision to, the ISP is present on the ISP; and

(C) A designated brokerage representative has reviewed the ISP for compliance with Division rules and policy.

## (9) PERIODIC REVIEW OF PLAN AND RESOURCES.

(a) The personal agent must conduct and document reviews of plans and resources with the individual and the individual's legal representative.

(b) At least annually as part of preparation for a new ISP, the personal agent must:

(A) Evaluate progress toward achieving the purposes of the ISP, assessing and revising goals as needed;

(B) Note effectiveness of the use of support funds based on personal agent observation as well as individual satisfaction;

(C) Determine whether changing needs or availability of other resources has altered the need for continued use of support services funds to purchase supports; and

(D) Record final support services fund costs.

(10) TRANSITION TO ANOTHER BROKERAGE. At the request of an individual enrolled in brokerage services who has selected another brokerage, the brokerage must collaborate with the receiving brokerage and the CDDP of the individual's county of residence to transition support services.

(a) If the Division has designated and contracted funds solely for the support of the transitioning individual, the brokerage must notify the Division to consider transfer of the funds for the individual to the receiving brokerage.

(b) The ISP in place at the time of request for transfer may remain in effect 90 days after enrollment in the new brokerage while a new ISP is negotiated and authorized.

Stat. Auth.: ORS 409.050 & 410.070

Stats. Implemented: ORS 427.005, 427.007, & 430.610 - 430.695

Hist.: MHD 9-2001(Temp), f. 8-30-01, cert. ef. 9-1-01 thru 2-27-02; MHD 5-2002, f. 2-26-02 cert. ef. 2-27-02; MHD 4-2003(Temp); f. & cert. ef. 7-1-03 thru 12-27-03; Renumbered from 309-041-1860, SPD 22-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 8-2005, f. & cert. ef. 6-23-05; SPD 17-2006, f. 4-26-06, cert. ef. 5-1-06; SPD 8-2008, f. 6-27-08, cert. ef. 6-29-08; SPD 8-2009, f. & cert. ef. 7-1-09; SPD 25-2010(Temp), f. & cert. ef. 11-17-10 thru 5-16-11; SPD 10-2011, f. & cert. ef. 5-5-11

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

**Rule Caption:** The purpose is for updating standards, clarification of language, and housekeeping items.

**Adm. Order No.:** OSFM 3-2011

**Filed with Sec. of State:** 4-22-2011

**Certified to be Effective:** 6-29-11

**Notice Publication Date:** 2-1-2011

**Rules Amended:** 837-012-0315, 837-012-0330

**Subject:** 837-012-0315 and 837-012-0330 updates are to adopt current editions of Oregon Fire Code, Building Code, clarification and housekeeping changes.

**Rules Coordinator:** Pat Carroll—(503) 934-8276

### 837-012-0315

#### Definitions

(1) "Agent" means an individual designated by the permit holder to pick up the agricultural fireworks authorized by the agricultural permit from an Oregon licensed wholesaler when the permit holder is unable to pick up the agricultural fireworks. The agent must have the agricultural permit (or a copy) issued by the State Fire Marshal in their possession at the time the agricultural fireworks are picked up from the wholesaler.

(2) "Agricultural Fireworks" means:

(a) Fireworks with a cardboard/pasteboard-type tube up to 4" in length and 3/4 inch in diameter or a shotgun shell type container,

(b) Fireworks containing only pyrotechnic compositions, e.g., black powder, flash powder, or smokeless powder, with an audible report containing up to 40 grains, or 2.592 grams, of explosive composition,

(c) Fireworks tested, classified and approved by the United States Department of Transportation,

(d) Fireworks designed and intended solely for use in:

(i) Controlling predatory animals allowed by ORS 480.124 or,

(ii) Controlling birds or animals which are or may injure forest or agricultural products or crops, allowed by ORS 480.122,

(e) Fireworks referred to as explosive pest control devices,

(f) Fireworks not including retail fireworks, public display fireworks, or exempt fireworks.

(3) "Agricultural Permit" means the official written document issued by the Office of State Fire Marshal pursuant to ORS 480.122 and 480.124 and OAR 837-012-0305 through 837-012-0370 granting permission to a person to purchase and use agricultural fireworks.

(4) "Agricultural Crop" means a plant or animal or plant or animal product that can be grown or harvested extensively for profit or subsistence.

(5) "Agricultural Product" means a product that is naturally grown and brings a profit.

(6) "Fire Protection District" means any district created under the laws of Oregon or the United States, including rural Fire Protection Districts and any federal, state or private forest patrol areas. Reference ORS 480.110(2).

(7) "Fireworks" has the meaning provided in ORS 480.110(1) and 837-012-0315(2).

(8) "Individual" means a real, actual person.

(9) "Individual Member of the General Public" means any person who has not been issued a wholesale permit, a general, limited or special effects public display permit, a retail permit or an agricultural permit by the Office of State Fire Marshal.

(10) "Local Fire Authority" means the local fire authority having jurisdiction over the agricultural fireworks use and storage sites.

(11) "May" means a regulation of conduct and implies probability or permission.

(12) "May not" means a prohibition of conduct.

(13) "Must" means a mandatory requirement.

(14) "Permit Application" means the form and accompanying documentation required to be completed and submitted to the Office of State Fire Marshal for approval prior to the issuance of an agricultural permit.

(15) "Permit Holder" means the person referred to in ORS 480.122 who:

(a) Desires to purchase, maintain, use, and explode agricultural fireworks for the purpose of scaring away or repelling birds or animals which are or may be injurious or destructive to forest or agricultural products or crops,

(b) Has applied to the State Fire Marshal for an agricultural permit;

(c) The State Fire Marshal has issued an agricultural permit referred to in ORS 480.122;

(d) Is responsible for any activities conducted under the agricultural permit.

(16) "Person" means one or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group of persons and includes the state, state agencies, counties, municipal corporations, school districts and other public corporations.

(17) "Sell" means to transfer possession of property from one person to another person for consideration.

(18) "Wholesaler" means any person who sells or provides by any other means, or intends to sell or provide by any other means fireworks, retail fireworks, public display fireworks, or agricultural fireworks.

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

Stat. Auth.: ORS 480.122 & 480.124

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 42, f. 4-15-70, ef. 5-11-70; Renumbered from 837-031-0015; OSFM 10-2001(Temp), f. & cert. ef. 12-12-01 thru 6-9-02; OSFM 3-2002, f. & cert. ef. 2-25-02; OSFM 7-2005, f. 5-24-05, cert. ef. 6-7-05; OSFM 15-2006, f. 12-22-06, cert. ef. 1-1-07; OSFM 8-2010(Temp), f. 12-20-10, cert. ef. 1-1-11 thru 6-29-11; OSFM 3-2011, f. 4-22-11, cert. ef. 6-29-11

### 837-012-0330

#### General

(1) Agricultural permits are issued solely for the purpose of purchasing, possessing, and using agricultural fireworks allowed by ORS 480.122 and 480.124.

(2) Agricultural permit holders must notify the Office of State Fire Marshal, in writing, within 24 hours of the date of change, of:

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(a) The agricultural permit holder's mailing address, telephone number,

(b) The storage address of the agricultural fireworks.

(3) Change of the storage location of the agricultural fireworks is subject to prior written approval by the local fire authority and the Office of State Fire Marshal.

(4) Agricultural permit holders must comply with all applicable federal, state and local laws, rules and regulations including, without limitation:

(a) ORS 480.110 through 480.165;

(b) OAR chapter 837, division 12;

(c) Oregon Fire Code, 2010 Edition; and

(d) Oregon Structural Specialty Code, 2010 Edition.

(5) Agricultural permit holders must purchase agricultural fireworks only from wholesalers having the necessary and current permits required by ORS 480.110 to 480.160 and OAR 837-012-0500 through 837-012-0570.

(6) Agricultural permit holders may request a duplicate copy of their agricultural permit by certifying to the Office of State Fire Marshal, in writing, their agricultural permit has been lost, stolen, or destroyed. Written requests must be signed and dated by the agricultural permit holder.

(7) The issuance of an agricultural permit does not in any way constitute approval by the Office of State Fire Marshal of any agricultural fireworks purchased, sold, or provided pursuant to the agricultural permit.

(8) An agricultural permit allows the permit holder to engage in the purchase, transportation, possession, storage and use of agricultural fireworks when those activities are otherwise in conformance with the applicable requirements of ORS 480.110 through 480.165, OAR chapter 837, division 12 and any other federal, state or local laws, rules or regulations pertaining to fireworks.

(9) An agricultural permit holder may not sell or provide agricultural fireworks to any other person.

(10) Any agricultural permit holder, other than an individual, is required by the State Fire Marshal to list the name, age, address, and phone number of one individual in a management position within their company or organization, on the permit application.

(11) Individuals firing agricultural fireworks shall be a minimum of 18 years of age.

(12) Only the agricultural permit holder, and any employees of the agricultural permit holder, may engage in activities authorized by the agricultural permit.

(13) Agricultural permits, and the rights conveyed by the agricultural permit, are not transferable.

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

Stat. Auth.: ORS 480.122 & 480.124

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 42, f. 4-15-70, ef. 5-11-70; Renumbered from 837-031-0030; OSFM 10-2001(Temp), f. & cert. ef. 12-12-01 thru 6-9-02; OSFM 3-2002, f. & cert. ef. 2-25-02; OSFM 7-2005, f. 5-24-05, cert. ef. 6-7-05; OSFM 15-2006, f. 12-22-06, cert. ef. 1-1-07; OSFM 8-2010(Temp), f. 12-20-10, cert. ef. 1-1-11 thru 6-29-11; OSFM 3-2011, f. 4-22-11, cert. ef. 6-29-11

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## Department of Public Safety Standards and Training Chapter 259

**Rule Caption:** Update public record request procedures and fees.

**Adm. Order No.:** DPSST 4-2011

**Filed with Sec. of State:** 5-5-2011

**Certified to be Effective:** 6-1-11

**Notice Publication Date:** 4-1-2011

**Rules Amended:** 259-025-0000

**Subject:** This rule update removes language referring to obsolete practices and establishes a more comprehensive fee schedule, taking into consideration the labor and materials needed to fulfill a request. Language is also added that allows DPSST to withhold records until payment is received.

**Rules Coordinator:** Linsay Bassler—(503) 378-2431

### 259-025-0000

#### Department Fees and Public Records Requests

(1) All information in the custody of the Department of Public Safety Standards and Training (Department) will be disclosed or protected from disclosure in accordance with ORS Chapter 192 and other applicable state and federal laws.

(2) Records Request Procedure: A request for photocopies, facsimile (fax) copies, electronically distributed (e-mail) copies and certifications of public records that are on file with the Department must be made in writ-

ing. Submission may be made by mail, fax, e-mail, or in person. The request must include:

(a) The name, address, and telephone number of the person requesting the public record;

(b) The date the request is being made; and

(c) An adequate description of the records being requested including subject matter and approximate creation dates when applicable.

(3) The Department will acknowledge records requests in a reasonable amount of time. In its response, the Department will:

(a) Indicate if they are in possession of the requested records;

(b) Identify the requested records that are exempt from disclosure under current Public Records Law;

(c) Provide an estimate of the expected cost of meeting the request; and

(d) Identify an estimated date by which the information will be provided.

(4) The regular duties of the Department will not be interrupted or interfered with because of time or effort required to respond to records requests.

(5) Records Request Fees: Unless otherwise provided by statute or other administrative rule, the Department may charge fees for recovering actual costs of:

(a) Staff time to research, locate, review, redact, compile and copy records;

(b) All material and media; and

(c) Postage, where applicable.

(6) Basic records requests requiring less than 10 minutes of staff time to compile and provide electronically will be charged a flat rate of \$5.

(7) Records requests that require no redacting and are copied and provided to the requestor in paper form will be charged at the rate of \$5 for the first 1-10 pages and \$.50 for each additional page.

(8) There will be no charge for furnishing normal and necessary records or publications to public safety officers or public safety agencies.

(9) The Department may require payment in advance.

(10) Other Fees: The Department may charge for the use of facilities at the Public Safety Academy.

(11) The Department may charge replacement cost for lost or damaged keys, equipment, or meal cards.

Stat. Auth.: ORS 181.640 & 703.230

Stats. Implemented: ORS 181.640 & 703.230

Hist.: PS 1-1983, f. & ef. 12-15-83; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 19-2002, f. & cert. ef. 11-21-02; DPSST 10-2007, f. & cert. ef. 10-15-07; DPSST 4-2011, f. 5-5-11, cert. ef. 6-1-11

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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.

**Adm. Order No.:** DMV 5-2011

**Filed with Sec. of State:** 4-22-2011

**Certified to be Effective:** 4-22-11

**Notice Publication Date:** 3-1-2011

**Rules Amended:** 735-150-0015

**Subject:** 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).

Previously, OAR 735-150-0015 stated 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 amendment revised 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.

**Rules Coordinator:** Lauri Kunze—(503) 986-3171

# ADMINISTRATIVE RULES

## 735-150-0015

### Dealer Applications

(1) An applicant for a vehicle dealer certificate under ORS 822.020 must submit the following to the DMV Business Regulation Section:

(a) A completed and signed DMV Application for Vehicle Dealer Certificate form;

(b) A completed and signed DMV Surety Bond form;

(c) A completed and signed DMV Certificate of Insurance form or DMV Certificate of Exemption form;

(d) State-issued picture identification (a copy of driver license or identification card) for each owner, partner, principal corporate officer, etc.;

(e) All applicable fees; and

(f) The following documentation certifying completion of the education and test requirements prescribed by ORS 822.027:

(A) A certificate of education completion issued by an authorized education provider as evidence that the applicant has completed the education requirements under ORS 822.027(1)(a); or

(B) A completed and signed DMV Education Requirements Certification of Exemption form, if an applicant is exempt from the education and test requirements under ORS 822.027(2).

(2) An applicant for a renewal of vehicle dealer certificate under ORS 822.040 must submit the following to the DMV Business Regulation Section:

(a) A completed and signed DMV Application for Vehicle Dealer Certificate form;

(b) A completed and signed DMV Surety Bond form, if the applicant is submitting a new bond, or proof acceptable to DMV that a valid surety bond is in effect at the time of renewal. Proof includes, but is not limited to a notation on DMV records or other evidence acceptable to DMV that the required bond is in effect.

(c) A completed and signed DMV Certificate of Insurance form or DMV Certificate of Exemption form;

(d) State-issued picture identification (a copy of driver license or identification card) for each owner, partner, principal corporate officer, etc.;

(e) All applicable fees; and

(f) The following documentation certifying completion of the education and test requirements prescribed by ORS 822.027:

(A) A certificate of education completion issued by an authorized education provider as evidence that the applicant has completed the education requirements under ORS 822.027(1)(b); or

(B) A completed and signed DMV Education Requirements Certification of Exemption form, if an applicant is exempt from the education and test requirements under ORS 822.027(3).

(3) In addition to the requirements of sections (1) and (2) of this rule, the applicant must submit a completed and signed DMV Supplemental Dealer/Rebuilder Dealer Certificate form for each additional business location other than the dealer's primary business location.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.012, 803.030, 822.020, 822.025, 822.027, 822.040

Stats. Implemented: ORS 802.012, 803.030, 822.020, 822.025, 822.027, 822.040

Hist.: DMV 4-1996, f. & cert. ef. 7-26-96; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 5-2011, f. & cert. ef. 4-22-11

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**Employment Department  
Chapter 471**

**Rule Caption:** Employer notification requirements in amended monetary determinations.

**Adm. Order No.:** ED 3-2011(Temp)

**Filed with Sec. of State:** 5-13-2011

**Certified to be Effective:** 7-1-11 thru 12-26-11

**Notice Publication Date:**

**Rules Amended:** 471-030-0048

**Subject:** Adds additional consideration for employer notification during amended monetary determination.

**Rules Coordinator:** Courtney Brooks—(503) 947-1724

## 471-030-0048

### Amended Monetary Determinations

(1) An individual who receives a monetary claim determination under ORS 657.266(2) may request that the determination be amended. The Director upon receipt of such a request will examine wage records submitted to the Department by employers in an attempt to locate wages and/or hours of work alleged by the claimant to be missing. If the discrepancy involves only hours of work and the claimant has provided documentary

evidence of hours sufficient to make the claim valid, the Director may issue a redetermination.

(2) If as the result of an investigation additional subject wages or hours of work are made available which either allow a non-valid claim to become valid, or increase the weekly benefit amount of a valid claim, a redetermination will be issued.

(3) If as the result of an investigation all or part of the requested wages or hours of work are not included in the claim determination, the Director will so notify the claimant. If the claimant requested an amended monetary determination as provided in section (1) of this rule within the period specified by ORS 657.266(5), such notice will be given by a determination amending or affirming the initial determination. Such notice shall be subject to appeal as provided in ORS 657.266(5).

(4) An employer is affected by an amended determination issued under ORS 657.266(3) if it is found to have paid wages to a claimant, and is potentially affected if a claimant alleges wages were paid to him or her by that employer.

(5) If, during a hearing on an initial or amended determination issued under ORS 657.266(2) or (3), an issue arises as to whether wages at issue were actually paid to claimant by an employer that was not given notice of the initial or amended determination, that employer will become a party to that hearing. If the hearing has already commenced, it will be continued to allow reasonable time for the employer to be notified of the hearing.

Stat. Auth.: ORS 657

Stats. Implemented: ORS 657.266

Hist.: IDE 2-1981(Temp), f. & ef. 2-16-81; IDE 4-1981, f. & ef. 4-1-81; ED 2-1995, f. 8-29-95, cert. ef. 9-3-95; ED 2-2005, f. 4-29-05, cert. ef. 5-1-05; ED 3-2011(Temp), f. 5-13-11, cert. ef. 7-1-11 thru 12-26-11

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

**Rule Caption:** Clarifies which individuals working in recorded programs must have background checks.

**Adm. Order No.:** CCD 1-2011(Temp)

**Filed with Sec. of State:** 4-28-2011

**Certified to be Effective:** 5-1-11 thru 10-20-11

**Notice Publication Date:**

**Rules Amended:** 414-425-0010, 414-425-0030, 414-450-0010, 414-450-0030

**Subject:** Clarifies which individuals working in school age and pre-school recorded programs must have criminal background checks.

**Rules Coordinator:** Courtney Brooks—(503) 947-1724

## 414-425-0010

### Definitions

(1) "Child Care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, during a part of the 24 hours of the day, with or without compensation.

(2) "CCD" means the Child Care Division of the Employment Department, or the Administrator or staff of the Division.

(3) "Program Record" means the document a school age recorded program is issued by the Child Care Division to operate a school age recorded program pursuant to ORS 657A.257 and OAR 414-425-0000 through 414-425-0030.

(4) "School Age Child" means a child eligible to be enrolled in the first grade or above in public school including the months of summer vacation prior to being eligible to be enrolled in the first grade or above in the next school year, up to age 13. For purposes of these rules, a child attending kindergarten may be considered a school age child.

(5) "School Age Recorded Program" means a program for school age children that does not take the place of a parent's care, in which youth development activities are provided to children during hours that school is not in session. For purposes of these rules it does not include programs that are operated by a school district as defined in ORS 332.002.

(6) "Staff" means any individual 18 years and older who works in, and has contact with children in the program

(7) "Youth development activities" means care, supervision or guidance that is intended for enrichment, including but not limited to teaching skills or proficiency in physical, social or educational activities such as tutoring, social activities, and recreational activities.

Stat. Auth.: ORS 657A.030(7)

Stats. Implemented: ORS 657A.030

Hist.: CCD 5-2010, f. 6-30-10, cert. ef. 7-1-10; CCD 1-2011(Temp), f. 4-28-11, cert. ef. 5-1-11 thru 10-20-11

# ADMINISTRATIVE RULES

## 414-425-0030

### General Requirements

(1) The school age recorded program must assure that all individuals who may be left alone with children in the program shall have criminal background checks.

(2) If an individual will never be left alone with children in the program, that individual does not have to have a criminal background check.

(3) The facility must have a written policy stating that individuals who have not completed a criminal background check may never be left alone with children in the program. The program must provide a copy of the written policy to all staff and volunteers.

(4) The school age recorded program must post a notice where it is visible to parents that the program is recorded with CCD and is legally exempt from licensure.

Stat. Auth.: ORS 657A.030(7)

Stats. Implemented: ORS 657A.030

Hist.: CCD 5-2010, f. 6-30-10, cert. ef. 7-1-10; CCD 1-2011(Temp), f. 4-28-11, cert. ef. 5-1-11 thru 10-20-11

## 414-450-0010

### Definitions

(1) "Child Care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, during a part of the 24 hours of the day, with or without compensation.

(2) "CCD" means the Child Care Division of the Employment Department, or the Administrator or staff of the Division.

(3) "Preschool-Age Child" means a child who is 36 months of age up to the summer vacation months prior to being eligible to be enrolled in the first grade in public school.

(4) "Preschool Recorded Program" means a facility providing care for preschool age children that is primarily educational for four hours or less per day and where no preschool child is present at the facility for more than four hours per day.

(5) "Program Record" means the document a preschool recorded program is issued by the Child Care Division to operate a preschool recorded program pursuant to ORS 657A.257 and OAR 414-450-0000 through 414-450-0030.

(6) "School-Age Child" means a child eligible to be enrolled in the first grade or above in public school including the months of summer vacation prior to being eligible to be enrolled in the first grade or above in the next school year, up to age 13. For purposes of these rules, a child attending kindergarten may be considered a school age child.

(7) "Staff" means any individual 18 years and older who works in, and has contact with children in the program.

Stat. Auth.: ORS 657A.030(7)

Stats. Implemented: ORS 657A.030

Hist.: CCD 6-2010, f. 6-30-10, cert. ef. 7-1-10; CCD 1-2011(Temp), f. 4-28-11, cert. ef. 5-1-11 thru 10-20-11

## 414-450-0030

### General Requirements

(1) The preschool recorded program must assure that all individuals who may be left alone with children in the program shall have criminal background checks.

(2) If an individual will never be left alone with children in the program, that individual does not have to have a criminal background check.

(3) The facility must have a written policy stating that individuals who have not completed a criminal background check may never be left alone with children in the program. The program must provide a copy of the written policy to all staff and volunteers.

(4) The preschool recorded program must post a notice where it is visible to parents that the program is recorded with CCD and is legally exempt from licensure.

Stat. Auth.: ORS 657A.030(7)

Stats. Implemented: ORS 657A.030

Hist.: CCD 6-2010, f. 6-30-10, cert. ef. 7-1-10; CCD 1-2011(Temp), f. 4-28-11, cert. ef. 5-1-11 thru 10-20-11

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## Oregon Board of Dentistry Chapter 818

**Rule Caption:** Amends Oregon Board of Dentistry Administrative Rules regarding Anesthesia and Specialty Licensing.

**Adm. Order No.:** OBD 2-2011(Temp)

**Filed with Sec. of State:** 5-9-2011

**Certified to be Effective:** 6-1-11 thru 11-27-11

**Notice Publication Date:**

**Rules Amended:** 818-021-0017, 818-026-0060, 818-026-0065, 818-026-0070

**Subject:** The Board is amending 818-021-0017 Application to Practice as a Specialist to allow any Board approved examination to qualify for a Specialty License.

The Board is amending to 818-026-0060 Moderate Sedation Permit to allow for an additional course to meet the life support requirements.

The Board is amending 818-026-0065 Deep Sedation to require that an electrocardiograph monitor (ECG) be required when Deep Sedation is administered and the patient's heart rhythm shall be recorded.

The Board is amending 818-026-0070 General Anesthesia Permit to require an electrocardiograph monitor (ECG) and continuous monitoring of a patient's heart rhythm when General Anesthesia is administered.

**Rules Coordinator:** Sharon Ingram—(971) 673-3200

## 818-021-0017

### Application to Practice as a Specialist

(1) A dentist who wishes to practice as a specialist in Oregon, who does not have a current Oregon license, in addition to meeting the requirements set forth in ORS 679.060 and 679.065, shall submit to the Board satisfactory evidence of:

(a) Having graduated from a school of dentistry accredited by the Commission on Dental Accreditation of the American Dental Association and active licensure as a general dentist in another state. Licensure as a general dentist must have been obtained as a result of the passage of any clinical Board examination administered by any state or regional testing agency;

(b) Certification of having passed the dental examination administered by the Joint Commission on National Dental Examinations or Canadian National Dental Examining Board Examination; and

(c) Proof of satisfactory completion of a post-graduate specialty program accredited by the Commission on Dental Accreditation of the American Dental Association.

(2) A dentist who graduated from a dental school located outside the United States or Canada who wishes to practice as a specialist in Oregon, who does not have a current Oregon license, in addition to meeting the requirements set forth in ORS 679.060 and 679.065, shall submit to the Board satisfactory evidence of:

(a) Completion of a post-graduate specialty program of not less than two years at a dental school accredited by the Commission on Dental Accreditation of the American Dental Association, proficiency in the English language, and evidence of active licensure as a general dentist in another state obtained as a result of the passage of any clinical Board examination administered by any state or regional testing agency; or

(b) Completion of a post-graduate specialty program of not less than two years at a dental school accredited by the Commission on Dental Accreditation of the American Dental Association, proficiency in the English language and certification of having successfully passed the clinical examination administered by any state or regional testing agency within the five years immediately preceding application; and

(c) Certification of having passed the dental examination administered by the Joint Commission on National Dental Examinations or Canadian National Dental Examining Board Examination; and

(3) An applicant who meets the above requirements shall be issued a specialty license upon:

(a) Passing a specialty examination approved by the Board.

(b) Passing the Board's jurisprudence examination.

(4) Any applicant who does not pass the first examination for a specialty license may apply for a second and third regularly scheduled specialty examination. The applicable fee and application for the reexamination shall be submitted to the Board at least 45 days before the scheduled examination. If the applicant fails to pass the third examination for the practice of a recognized specialty, the applicant will not be permitted to retake the particular specialty examination until he/she has attended and successfully passed a remedial program prescribed by a dental school accredited by the Commission on Dental Accreditation of the American Dental Association and approved by the Board.

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.140, 679.060, 679.065, 679.070, 679.080 679.090

Hist.: DE 4-1997, f. & cert. ef. 12-31-97; OBD 2-1999(Temp), f. 3-10-99, cert. ef. 3-15-99 thru 9-10-99; OBD 5-1999, f. 6-25-99, cert. ef. 7-1-99; OBD 11-2001, f. & cert. ef. 1-8-01; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD

# ADMINISTRATIVE RULES

1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2011(Temp), f. 5-9-11, cert. ef. 6-1-11 thru 1-27-11

## 818-026-0060

### Moderate Sedation Permit

Moderate sedation, minimal sedation, and nitrous oxide sedation.

(1) The Board shall issue or renew a Moderate Sedation Permit to an applicant who:

(a) Is a licensed dentist in Oregon;

(b) Either holds a current Advanced Cardiac Life Support (ACLS) or Pediatric Advanced Life Support (PALS) certificate, whichever is appropriate for the patient being sedated, or successfully completes the American Dental Association's course "*Recognition and Management of Complications during Minimal and Moderate Sedation*" at least every two years; and

(c) Satisfies one of the following criteria:

(A) Completion of a comprehensive training program in enteral and/or parenteral sedation that satisfies the requirements described in Part III of the *ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students (2007)* at the time training was commenced.

(i) Enteral Moderate Sedation requires a minimum of 24 hours of instruction plus management of at least 10 dental patient experiences by the enteral and/or enteral-nitrous oxide/oxygen route.

(ii) Parenteral Moderate Sedation requires a minimum of 60 hours of instruction plus management of at least 20 dental patients by the intravenous route.

(B) Completion of an ADA accredited postdoctoral training program (e.g., general practice residency) which affords comprehensive and appropriate training necessary to administer and manage parenteral sedation, commensurate with these Guidelines.

(C) In lieu of these requirements, the Board may accept equivalent training or experience in moderate sedation anesthesia.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedures and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room;

(h) Sphygmomanometer, precordial/pretracheal stethoscope or capnograph, pulse oximeter, oral and nasopharyngeal airways, laryngeal mask airways, intravenous fluid administration equipment, automated external defibrillator (AED); and

(i) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, antihistamines, antihypertensives and anticonvulsants.

(3) No permit holder shall have more than one person under moderate sedation, minimal sedation, or nitrous oxide sedation at the same time.

(4) During the administration of moderate sedation, and at all times while the patient is under moderate sedation, an anesthesia monitor, and one other person holding a Health Care Provider BLS/CPR level certificate or its equivalent, shall be present in the operatory, in addition to the dentist performing the dental procedures.

(5) Before inducing moderate sedation, a dentist who induces moderate sedation shall:

(a) Evaluate the patient and document, using the American Society of Anesthesiologists *Patient Physical Status Classifications*, that the patient is an appropriate candidate for moderate sedation;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; and

(c) Obtain written informed consent from the patient or patient's guardian for the anesthesia.

(6) A patient under moderate sedation shall be visually monitored at all times, including the recovery phase. The dentist or anesthesia monitor shall monitor and record the patient's condition.

(7) The patient shall be monitored as follows:

(a) Patients must have continuous monitoring using pulse oximetry. The patient's blood pressure, heart rate, and respiration shall be recorded at regular intervals but at least every 15 minutes, and these recordings shall be documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. If this information cannot be obtained, the reasons shall be documented in the patient's record. A patient under moderate sedation shall be continuously monitored;

(b) During the recovery phase, the patient must be monitored by an individual trained to monitor patients recovering from moderate sedation.

(8) A dentist shall not release a patient who has undergone moderate sedation except to the care of a responsible third party.

(9) The dentist shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(c) The patient can talk and respond coherently to verbal questioning;

(d) The patient can sit up unaided;

(e) The patient can ambulate with minimal assistance; and

(f) The patient does not have uncontrollable nausea or vomiting and has minimal dizziness.

(10) A discharge entry shall be made by the dentist in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged.

(11) After adequate training, an assistant, when directed by a dentist, may introduce additional anesthetic agents to an infusion line under the direct visual supervision of a dentist.

(12) Permit renewal. In order to renew a Moderate Sedation Permit, the permit holder must provide documentation of having current ACLS or PALS certification or current certification of successful completion of the American Dental Association's course "*Recognition and Management of Complications during Minimal and Moderate Sedation*" and must complete 14 hours of continuing education in one or more of the following areas every two years: sedation, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current ACLS or PALS certification or successful completion of the American Dental Association's course "*Recognition and Management of Complications during Minimal and Moderate Sedation*" may be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

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

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.250(7) & 679.250(10)

Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 1-1999, f. 2-26-99, cert. ef. 3-1-99; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99; OBD 2-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-18-00; OBD 2-2001, f. & cert. ef. 1-8-01; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2011(Temp), f. 5-9-11, cert. ef. 6-1-11 thru 1-27-11

## 818-026-0065

### Deep Sedation

Deep sedation, moderate sedation, minimal sedation, and nitrous oxide sedation.

(1) The Board shall issue a Deep Sedation Permit to a licensee who holds a Class 3 Permit on or before July 1, 2010 who:

(a) Is a licensed dentist in Oregon; and

(b) Holds a current Advanced Cardiac Life Support (ACLS) or Pediatric Advanced Life Support (PALS) certificate, whichever is appropriate for the patient being sedated.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedures and during recovery:

# ADMINISTRATIVE RULES

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room;

(h) Sphygmomanometer, precordial/pretracheal stethoscope or capnograph, pulse oximeter, electrocardiograph monitor (ECG), automated external defibrillator (AED), oral and nasopharyngeal airways, laryngeal mask airways, intravenous fluid administration equipment; and

(i) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, antihistamines, antihypertensives and anticonvulsants.

(3) No permit holder shall have more than one person under deep sedation or conscious sedation at the same time.

(4) During the administration of deep sedation, and at all times while the patient is under deep sedation, an anesthesia monitor, and one other person holding a Health Care Provider BLS/CPR level certificate or its equivalent, shall be present in the operatory, in addition to the dentist performing the dental procedures.

(5) Before inducing deep sedation, a dentist who induces deep sedation shall:

(a) Evaluate the patient and document, using the American Society of Anesthesiologists *Patient Physical Status Classifications*, that the patient is an appropriate candidate for deep sedation;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; and

(c) Obtain written informed consent from the patient or patient's guardian for the anesthesia.

(6) A patient under deep sedation shall be visually monitored at all times, including the recovery phase. The dentist or anesthesia monitor shall monitor and record the patient's condition.

(7) The patient shall be monitored as follows:

(a) Patients must have continuous monitoring using pulse oximetry. The patient's blood pressure, heart rate, heart rhythm, and respiration shall be recorded at regular intervals but at least every 5 minutes, and these recordings shall be documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. If this information cannot be obtained, the reasons shall be documented in the patient's record. A patient under deep sedation shall be continuously monitored;

(b) During the recovery phase, the patient must be monitored by an individual trained to monitor patients recovering from deep sedation.

(8) A dentist shall not release a patient who has undergone deep sedation except to the care of a responsible third party.

(9) The dentist shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(c) The patient can talk and respond coherently to verbal questioning;

(d) The patient can sit up unaided;

(e) The patient can ambulate with minimal assistance; and

(f) The patient does not have uncontrollable nausea or vomiting and has minimal dizziness.

(10) A discharge entry shall be made by the dentist in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged.

(11) After adequate training, an assistant, when directed by a dentist, may introduce additional anesthetic agents to an infusion line under the direct visual supervision of a dentist.

(12) Permit renewal. In order to renew a Deep Sedation Permit, the permit holder must provide documentation of having current ACLS or PALS certification and must complete 14 hours of continuing education in one or more of the following areas every two years: sedation, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, or pharmacology of drugs and agents used in sedation. Training taken to maintain current ACLS or PALS certification may be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

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

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.250(7) & 679.250(10)

Hist.: OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2011(Temp), f. 5-9-11, cert. ef. 6-1-11 thru 1-27-11

## 818-026-0070

### General Anesthesia Permit

General anesthesia, deep sedation, moderate sedation, minimal sedation and nitrous oxide sedation.

(1) The Board shall issue a General Anesthesia Permit to an applicant who:

(a) Is a licensed dentist in Oregon;

(b) Holds a current Advanced Cardiac Life Support (ACLS) Certificate or Pediatric Advanced Life Support (PALS) Certificate, whichever is appropriate for the patient being sedated; and

(c) Satisfies one of the following criteria:

(A) Completion of an advanced training program in anesthesia and related subjects beyond the undergraduate dental curriculum that satisfies the requirements described in the *ADA Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students (2007)* consisting of a minimum of 2 years of a postgraduate anesthesia residency at the time training was commenced.

(B) Completion of any ADA accredited postdoctoral training program, including but not limited to Oral and Maxillofacial Surgery, which affords comprehensive and appropriate training necessary to administer and manage general anesthesia, commensurate with these Guidelines.

(C) In lieu of these requirements, the Board may accept equivalent training or experience in general anesthesia.

(2) The following facilities, equipment and drugs shall be on site and available for immediate use during the procedure and during recovery:

(a) An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least three individuals to freely move about the patient;

(b) An operating table or chair which permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support;

(c) A lighting system which permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure;

(d) Suction equipment which permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure;

(e) An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system;

(f) A nitrous oxide delivery system with a fail-safe mechanism that will insure appropriate continuous oxygen delivery and a scavenger system;

(g) A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room;

(h) Sphygmomanometer, precordial/pretracheal stethoscope or capnograph, pulse oximeter, electrocardiograph monitor (ECG), automated external defibrillator (AED), oral and nasopharyngeal airways, laryngeal mask airways, intravenous fluid administration equipment; and

(i) Emergency drugs including, but not limited to: pharmacologic antagonists appropriate to the drugs used, vasopressors, corticosteroids, bronchodilators, intravenous medications for treatment of cardiac arrest, narcotic antagonist, antihistaminic, antiarrhythmics, antihypertensives and anticonvulsants.



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## Oregon Department of Education Chapter 581

(3) No permit holder shall have more than one person under general anesthesia, deep sedation, moderate sedation, minimal sedation or nitrous oxide sedation at the same time.

(4) During the administration of deep sedation or general anesthesia, and at all times while the patient is under deep sedation or general anesthesia, an anesthesia monitor and one other person holding a Health Care Provider BLS/CPR level certificate, or its equivalent, shall be present in the operator in addition to the dentist performing the dental procedures.

(5) Before inducing deep sedation or general anesthesia the dentist who induces deep sedation or general anesthesia shall:

(a) Evaluate the patient and document, using the American Society of Anesthesiologists Patient Physical Status Classifications, that the patient is an appropriate candidate for general anesthesia or deep sedation;

(b) Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; and

(c) Obtain written informed consent from the patient or patient's guardian for the anesthesia.

(6) A patient under deep sedation or general anesthesia shall be visually monitored at all times, including recovery phase. A dentist who induces deep sedation or general anesthesia or anesthesia monitor trained in monitoring patients under deep sedation or general anesthesia shall monitor and record the patient's condition on a contemporaneous record.

(7) The patient shall be monitored as follows:

(a) Patients must have continuous monitoring of their heart rate, heart rhythm, oxygen saturation levels and respiration. The patient's blood pressure, heart rate and oxygen saturation shall be assessed every five minutes, and shall be contemporaneously documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. The person administering the anesthesia and the person monitoring the patient may not leave the patient while the patient is under deep sedation or general anesthesia;

(b) During the recovery phase, the patient must be monitored, including the use of pulse oximetry, by an individual trained to monitor patients recovering from general anesthesia.

(8) A dentist shall not release a patient who has undergone deep sedation or general anesthesia except to the care of a responsible third party.

(9) The dentist shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met:

(a) Vital signs including blood pressure, pulse rate and respiratory rate are stable;

(b) The patient is alert and oriented to person, place and time as appropriate to age and preoperative psychological status;

(c) The patient can talk and respond coherently to verbal questioning;

(d) The patient can sit up unaided;

(e) The patient can ambulate with minimal assistance; and

(f) The patient does not have nausea or vomiting and has minimal dizziness.

(10) A discharge entry shall be made in the patient's record by the dentist indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged.

(11) After adequate training, an assistant, when directed by a dentist, may introduce additional anesthetic agents to an infusion line under the direct visual supervision of a dentist.

(12) Permit renewal. In order to renew a General Anesthesia Permit, the permit holder must provide documentation of having current ACLS or PALS certification and complete 14 hours of continuing education in one or more of the following areas every two years: deep sedation and/or general anesthesia, physical evaluation, medical emergencies, monitoring and the use of monitoring equipment, pharmacology of drugs and agents used in anesthesia. Training taken to maintain current ACLS or PALS certification may be counted toward this requirement. Continuing education hours may be counted toward fulfilling the continuing education requirement set forth in OAR 818-021-0060.

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

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.250(7) & 679.250(10)

Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 6-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction 8-12-99; OBD 2-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-18-00; Administrative correction 6-21-01; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2011(Temp), f. 5-9-11, cert. ef. 6-1-11 thru 1-27-11

**Rule Caption:** Modified appeals procedure relating to special education complaint investigations.

**Adm. Order No.:** ODE 6-2011

**Filed with Sec. of State:** 4-22-2011

**Certified to be Effective:** 4-22-11

**Notice Publication Date:** 4-1-2011

**Rules Amended:** 581-001-0005, 581-015-2030

**Subject:** Generally the Superintendent of Public Instruction allows a person entitled to judicial review of a final order to request reconsideration of a final order issued by the Superintendent. However, the Department recently was notified by the federal Office of Special Education Programs that for those orders relating to special education complaint investigations this allowance violates the federal Individuals with Disabilities Act. The rule amendments will bring Oregon into compliance with federal law.

**Rules Coordinator:** Diane Roth—(503) 947-5791

### 581-001-0005

#### Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the State Board of Education adopts the Attorney General's Model Rules of Procedure under the Administrative Procedure Act in effect on January 1, 2006, except for special education due process hearings authorized under ORS 343.165, and special education complaint investigations under ORS 343.041(3), which shall be heard in accordance with rules of the State Board of Education implementing the federal law, Individuals with Disabilities Education Act, in effect as of December 3, 2004.

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

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183.341

Hist.: 1EB 2, f. 12-22-58; 1EB 125, f. 11-4-71, ef. 11-15-71; 1EB 160, f. 11-2-73, ef. 11-25-73; Renumbered from 581-061-0035, 4-1-76; 1EB 222, f. 3-22-76, ef. 4-1-76; 1EB 14-1978, f. & ef. 4-3-78; 1EB 7-1980, f. & ef. 4-17-80; 1EB 20-1981(Temp), f. 12-29-81, ef. 12-31-81; 1EB 11-1982, f. & ef. 3-24-82; 1EB 2-1984, f. 2-17-84, ef. 5-8-84; 1EB 22-1986, f. & ef. 7-14-86; EB 2-1995, f. & cert. ef. 1-24-95; ODE 2-2006(Temp), f. & cert. ef. 2-14-06 thru 8-1-06; Administrative correction 8-22-06; ODE 4-2007, f. & cert. ef. 2-21-07; ODE 6-2011, f. & cert. ef. 4-22-11

### 581-015-2030

#### Procedures for Complaints as Required by IDEA Regulations

(1) An organization or individual, including an organization or individual from another state, may file with the State Superintendent of Public Instruction a written, signed complaint that the Department, or a sub grantee, including but not limited to a regional program, an education service district or a local education agency is violating or has violated the Individuals with Disabilities Education Act or regulations under that Act.

(2) The complainant must send a copy of the complaint to the public agency serving the child at the same time the complainant files the complaint with the Department.

(3) Upon receipt of a complaint under this provision, the Department will provide a copy of the Notice of Procedural Safeguards to a parent or adult student who files a complaint.

(4) If a complaint alleges violations outside the scope of the Individuals with Disabilities Education Act, the complainant will be informed of alternative procedures that are available to address the complainant's allegations.

(5) The complaint must allege a violation that occurred not more than one year before the date that the complaint is received by the Department.

(6) The complaint must include the facts on which the complaint is based. If the facts as alleged by the complainant would be considered a violation of the Individuals with Disabilities Education Act:

(a) The Superintendent will request the public agency to respond to the allegations. The Superintendent (or designee) may also initiate attempts to resolve the complaint through mediation or alternative dispute resolution, including local resolution.

(b) The respondent must respond to the allegations and furnish any information or documents requested by the Superintendent within ten business days from the receipt of request for response from the Superintendent unless another time period is specified by the Superintendent. At the same time, the respondent must send a copy of the response and documents to the complainant. If the complainant does not otherwise have access to confidential information in the response, the respondent must provide the complainant with the non-confidential portion(s) of the response.

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(7) The Superintendent will give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint or the public agency's response. The complainant must provide a copy of any further written information to the public agency that is the subject of the complaint, unless it would be a hardship to do so. In those situations, the Department will provide a copy of the written information to the public agency.

(8) The Superintendent will review all of the written information submitted by the complainant and the public agency to resolve the allegations in the complaint.

(9) The Superintendent may conduct further investigation, such as telephone or onsite interviews, to the extent necessary to resolve the complaint allegations.

(10) If a written complaint is received that is also the subject of a due process hearing under OAR 581-015-2345, or contains multiple issues of which one or more are part of that hearing, the Superintendent will set aside any part of the complaint that is being addressed in the due process hearing, until the conclusion of the hearing. Any issue in the complaint that is not a part of the due process hearing will be resolved using the time limit and procedures in this rule.

(11) If an issue raised in a complaint has previously been decided in a due process hearing involving the same parties, the hearing decision is binding and the Superintendent will inform the complainant to that effect. A complaint alleging a school district's failure to implement a due process decision will be resolved by the Superintendent.

(12) The Superintendent will issue a written decision that addresses each allegation in the complaint and contains findings of fact, conclusions, and reasons for the Department's final decision within 60 days of receipt of the complaint unless:

(a) Exceptional circumstances related to the complaint require an extension; or

(b) The complainant and public agency agree in writing to extend the time to try mediation or local resolution.

(13) If the Superintendent finds a violation, the Superintendent's written decision will include any necessary corrective action to be undertaken as well as any documentation to be supplied by any party to ensure that the corrective action has occurred. If the decision is that a school district has failed to provide appropriate services, the Superintendent will address:

(a) How to remediate the failure to provide those services, including, as appropriate, compensatory education, monetary reimbursement or other corrective action appropriate to the needs of the child; and

(b) Appropriate future provision of services for all children with disabilities.

(14)(a) Parties may seek judicial review of the final order under ORS 183.484. Judicial review may be obtained by filing a petition for review within 60 days of service of the final order with the Marion County Circuit Court or with the Circuit Court for the County where the party resides.

(b) Notwithstanding OAR 137-004-0080, a person entitled to judicial review of the final order may not request reconsideration of the final order by the Superintendent.

(15) Corrective action ordered by the Superintendent must be completed within the timelines established in the final order unless another time period is specified by the Department.

(16) At any time during the pendency of the complaint, if the Superintendent determines that there is a strong likelihood that the respondent has significantly breached the Individuals with Disabilities Education Act and that delay may cause irreparable harm, the Superintendent may order interim relief.

(17) If the respondent refuses to voluntarily comply with a plan of correction when so ordered, the Superintendent may take one or more of the following actions:

(a) Disapprove in whole or part, the respondent's application for federal funding;

(b) Withhold or terminate further assistance to the respondent for an approved project;

(c) Suspend payments, under an approved project, to a respondent;

(d) Order, in accordance with a final state audit resolution determination, the repayment of specified federal funds; and

(e) Withhold all or part of a district's basic school support in accordance with ORS 327.103.

(18) Before the Superintendent denies or withholds funding or orders reimbursement as provided in Section (17) of this rule, the Superintendent will notify the respondent of the right to request a hearing in accordance with ORS 183.415.

(a) The hearing request must be made to the Superintendent within 30 days of receiving notice;

(b) The Superintendent will appoint a hearings officer who will conduct the hearing in accordance with ORS 183.413 to 183.470;

(c) The burden of proof at the hearing is on the Department;

(d) The Superintendent's decision is final, subject to appeal to the United States Secretary of Education or the Oregon Court of Appeals.

(19) No person may be subject to retaliation or discrimination for having filed or participated in this complaint procedure. Any person who believes that she or he has been subject to retaliation or discrimination may file a complaint under this rule with the Superintendent.

Stat. Auth.: ORS 343.041

Stats. Implemented: ORS 343.041, 34 CFR 300.151-153; 34 CFR 300.504(a)(2)

Hist.: 1EB 28-1980, f. & ef. 12-23-80; EB 26-1987(Temp), f. & ef. 11-17-87; EB 22-1988, f. & cert. ef. 5-24-88; EB 32-1988, f. & cert. ef. 8-3-88; EB 44-1990, f. & cert. ef. 9-12-90; EB 35-1992(Temp), f. & cert. ef. 11-24-92; EB 8-1993, f. & cert. ef. 3-25-93; ODE 15-1999, f. & cert. ef. 9-24-99, Renumbered from 581-001-0010; ODE 29-2000, f. & cert. ef. 12-11-00; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0054, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 6-2011, f. & cert. ef. 4-22-11

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## Oregon Health Authority, Division of Medical Assistance Programs Chapter 410

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

**Adm. Order No.:** DMAP 6-2011

**Filed with Sec. of State:** 5-5-2011

**Certified to be Effective:** 5-5-11

**Notice Publication Date:** 3-1-2011

**Rules Adopted:** 410-121-4000, 410-121-4005, 410-121-4010, 410-121-4015, 410-121-4020

**Subject:** The Oregon Health Authority, Division of Medical Assistance Programs is permanently adopting 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:** Darlene Nelson—(503) 945-6927

### 410-121-4000

#### Purpose

The purpose of the Prescription Drug Monitoring Program rules (OAR 410-121-4000 through 410-121-4020) is to define operational processes of a prescription drug monitoring program.

Stat. Auth.: ORS 431.962

Stats. Implemented: ORS 431.962

Hist.: DMAP 6-2011, f. & cert. ef. 5-5-11

### 410-121-4005

#### Definitions

Unless otherwise stated in rules 410-121-4000 through 410-121-4020, or the context of rules 410-121-4000 through 410-121-4020 requires otherwise, the following definitions apply to rules 410-121-4000 through 410-121-4020:

(1) "Authority" means the Oregon Health Authority.

(2) "Controlled substance" means a prescription drug classified in Schedules II through IV under the Federal Controlled Substances Act, 21 U.S.C. 811 and 812, as modified under ORS 475.035.

(3) "Dispense" and "dispensing" have the meaning given those terms in ORS 689.005.

(4) "Health professional regulatory board" has the meaning given that term in ORS 676.160.

(5) "Pharmacy" has the meaning given that term in ORS 689.005 but does not include a pharmacy in an institution as defined in ORS 179.010.

(6) "Practitioner" has the meaning given that term in ORS 689.005.

(7) "Prescription drug" has the meaning given that term in ORS 689.005.

(8) "System" means the secure electronic system used to monitor reported prescription drug information.

(9) "Unsecure data" means data that is electronic and is not encrypted at the level established by the National Institute of Standards and Technology.

(10) "Vendor" means the private entity under contract with the Authority to operate the system.

Stat. Auth.: ORS 431.962

Stats. Implemented: ORS 431.962 - 431.978 & 431.992

Hist.: DMAP 6-2011, f. & cert. ef. 5-5-11

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## 410-121-4010

### Reporting Requirements

(1) No later than one week after dispensing a controlled substance a pharmacy shall electronically report to the Authority the following information:

- (a) Patient's full name, address, and date of birth;
- (b) Pharmacy Drug Enforcement Administration Registration Number (or other identifying number in lieu of such registration number);
- (c) Prescriber name and Drug Enforcement Administration Registration Number (or other identifying number in lieu of such registration number);
- (d) Identification of the controlled substance using a national drug code number;
- (e) Date the prescription was written;
- (f) Date the drug was dispensed; and
- (g) Number of metric units dispensed.

(2) A pharmacy located outside of the state and licensed by the Oregon Board of Pharmacy shall electronically report the required information for controlled substances dispensed to residents of Oregon.

(3) A pharmacy shall submit data formatted in the American Society for Automation in Pharmacy (ASAP) 2007 version 4 release 1 specification standard.

(4) Data submitted by a pharmacy shall meet criteria prescribed by the Authority before it is uploaded into the system.

(5) A pharmacy shall be responsible for the correction of errors in the submitted data. Corrections shall be submitted no later than one week after the data was submitted.

(6) A pharmacy that has not dispensed any controlled substances during a seven-day reporting period must submit a zero report to the Authority at the end of the reporting period.

(7) A pharmacy that does not dispense any controlled substances or any controlled substances directly to a patient may request a waiver from the Authority for exemption from the reporting requirement. A pharmacy requesting a no reporting waiver shall submit to the Authority a written waiver request form provided by the Authority.

(8) If the Authority approves or denies the no reporting waiver request, the Authority shall provide written notification of approval or denial to the pharmacy. The duration of the waiver shall be two years at which time the pharmacy must reapply.

(9) A pharmacy may request a waiver from the Authority for exemption from the electronic reporting method. A pharmacy requesting an electronic reporting waiver shall submit to the Authority a written waiver request form provided by the Authority that contains the reason for the requested waiver.

(10) The Authority may grant a waiver of the electronic reporting requirement for good cause as determined by the Authority. Good cause includes financial hardship and not having an automated recordkeeping system.

(a) If the Authority approves the electronic reporting waiver, the Authority shall provide written notification to the pharmacy. The Authority shall determine an alternative reporting method for the pharmacy granted a waiver. The duration of the waiver shall be two years at which time the pharmacy must reapply.

(b) If the Authority denies the electronic reporting waiver, the Authority shall provide written notification to the pharmacy explaining why the request was denied. The Authority may offer alternative suggestions for reporting to facilitate participation in the program.

Stat. Auth.: ORS 431.962  
Stats. Implemented: ORS 431.962 & 431.964  
Hist.: DMAP 6-2011, f. & cert. ef. 5-5-11

## 410-121-4015

### Notification to Patients

Using language provided by the Authority, a pharmacy shall notify each patient receiving a controlled substance about the Prescription Drug Monitoring Program before or when the controlled substance is dispensed to the patient. The notification shall include that the prescription will be entered into the system.

Stat. Auth.: ORS 431.962  
Stats. Implemented: ORS 431.962  
Hist.: DMAP 6-2011, f. & cert. ef. 5-5-11

## 410-121-4020

### Information Access

(1) System Access. Only the following individuals or entities may access the system:

(a) Practitioners and pharmacists authorized to prescribe or dispense controlled substances; and

(b) Designated representatives of the Authority and any vendor contracted to establish or maintain the system.

(2) All entities or individuals who request access from the Authority for the creation of user accounts shall agree to terms and conditions of use of the system.

(3) The Authority shall monitor the system for unusual and potentially unauthorized use. When such use is detected, the user account shall be immediately deactivated.

(4) The vendor, a practitioner, a pharmacist or a pharmacy shall report to the Authority within 24 hours any suspected breach of the system or unauthorized access.

(5) When the Authority is informed of any suspected breach of the system or unauthorized access, the Authority shall notify the Authority's Information Security Office and investigate.

(6) If patient data is determined to have been breached or accessed without proper authorization, the Authority shall notify all affected patients, the Attorney General, and the applicable health professional regulatory board as soon as possible but no later than 30 days from the date of the final determination that a breach or unauthorized access occurred. Notice shall be made by first class mail to a patient or a patient's next of kin if the patient is deceased. The notice shall include:

(a) The date the breach or unauthorized access was discovered and the date the Authority believes the breach or unauthorized access occurred;

(b) The data that was breached or accessed without proper authorization;

(c) Steps the individual can take to protect him or herself from identity or medical identity theft;

(d) Mitigation steps taken by the Authority; and

(e) Steps the Authority will take to reasonably ensure such a breach does not occur in the future.

(7) Practitioner and Pharmacist Access. A practitioner or pharmacist who chooses to request access to the system shall apply for a user account as follows:

(a) Complete and submit an application provided by the Authority that includes identifying information and credentials;

(b) Agree to terms and conditions of use of the system that defines the limits of access, allowable use of patient information, and penalties for misuse of the system; and

(c) Mail to the Authority a notarized application.

(8) The Authority shall review each application to authenticate before granting approval of a new account.

(9) If the Authority learns that a practitioner or pharmacist has provided inaccurate or false information on an application, the Authority shall deny access to the system or terminate access to the system if access has already been established. The Authority may send written notification to the appropriate health professional regulatory board.

(10) A practitioner or pharmacist who is an authorized system user shall notify the Authority when his or her license or DEA registration has been limited or revoked. A practitioner or pharmacist who changes or terminates employment shall notify the Authority of that change.

(11) When the Authority learns that a practitioner or pharmacist's license has been limited or revoked, the Authority shall deny further access to the system.

(12) Each time a practitioner or pharmacist makes a patient query he or she shall certify that requests are in connection with the treatment of a patient in his or her care and agree to terms and conditions of use of the system.

(13) When the Authority learns of any potential unauthorized use of the system or system data, the Authority shall revoke the practitioner or pharmacist's access to the system, notify the Authority's Information Security Office, and investigate.

(a) If the Authority determines unauthorized use occurred, the Authority shall send written notification to the appropriate health professional regulatory board, the Attorney General and all affected individuals.

(b) If the Authority determines unauthorized use did not occur, the Authority shall reinstate access to the system.

(14) The Authority shall send written notification to a user or a potential user when an account has been deactivated or access has been denied.

(15) Patient Access. A patient may request a report of the patient's own controlled substance record. The patient shall mail to the Authority a request that contains the following documents:

(a) A signed and dated patient request form provided by the Authority; and

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(b) A copy of the patient's current valid U.S. driver's license or other valid government issued photo identification.

(16) The Authority shall review the personal information submitted and verify that the patient's identification and request match before taking further action.

(17) If the Authority cannot verify the information, the Authority shall send written notification to the patient explaining why the request cannot be processed.

(18) After the Authority has verified the request, the Authority shall query the system based upon the patient information provided in the request and securely send the report to the patient at no cost to the patient.

(19) If no data is found that matches the patient identified in the request, the Authority shall send written notification to the patient explaining possible reasons why no patient data was identified.

(20) A patient may send written notification to the Authority if he or she believes unauthorized access to his or her information has occurred. The notification shall include the patient's name, who is suspected to have gained unauthorized access to the patient's information, what information is suspected to have been accessed by unauthorized use, when the suspected unauthorized access occurred, and why the patient suspects the access was unauthorized. The Authority shall treat such patient notifications as potential unauthorized use of the system.

(21) A patient may request that the Authority correct information in a patient record report as follows:

(a) The patient shall specify in writing to the Authority what information in the report the patient considers incorrect.

(b) When the Authority receives a request to correct a patient's information in the system, the Authority shall make a note in the system that the information is contested and verify the accuracy of the system data with the vendor. The vendor shall verify that the data obtained from the query is the same data received from the pharmacy.

(c) If the data is verified incorrect, the Authority shall correct the errors in consultation with the vendor and document the correction. The Authority shall send to the patient the corrected report.

(d) If the vendor verifies the data is correct, the Authority shall send written notification informing the patient that the request for correction is denied. The notice shall inform the patient of his or her rights as are applicable to the prescription drug monitoring program, the process for filing an appeal, and if there are no appeal rights, how to otherwise address or resolve the issue.

(22) The Authority shall respond to all patient requests within 10 business days after the Authority receives a request. Each response shall include information that informs the patient of his or her rights as are applicable to the prescription drug monitoring program.

(23) If the Authority denies a patient's request to correct information, or fails to grant a patient's request within 10 business days after the Authority receives the request, a patient may appeal the denial or failure by requesting a contested case hearing. The appeal shall be filed within 30 days after the request to correct information is denied. The appeal process is conducted pursuant to ORS chapter 183 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings (OAH), OAR 137-003-0501 through 137-003-0700.

(24) Law Enforcement Access. A federal, state, or local law enforcement agency engaged in an authorized drug-related investigation of an individual may request from the Authority controlled substance information pertaining to the individual to whom the information pertains. The request shall be pursuant to a valid court order based on probable cause.

(25) A law enforcement agency shall submit to the Authority a request that contains the following:

(a) A form provided by the Authority specifying the information requested; and

(b) A copy of the court order documents.

(26) The Authority shall review the law enforcement request.

(a) If the form is complete and the court order is valid, the Authority shall query the system for the requested information and securely provide a report to the law enforcement agency.

(b) If the request or court order is not valid, the Authority shall respond to the law enforcement agency providing an explanation for the denial.

(27) Health Professional Regulatory Board Access. A health professional regulatory board investigating an individual regulated by the board may request from the Authority controlled substance information pertaining to the member.

(a) A health professional regulatory board shall submit to the Authority a form provided by the Authority specifying the information

requested. The board's executive director shall certify that the requested information is necessary for an investigation related to licensure, renewal, or disciplinary action involving the applicant, licensee, or registrant to whom the requested information pertains.

(b) The Authority shall review the regulatory board request.

(A) If a request is valid, the Authority shall query the system for the requested information and securely provide a report to the health professional regulatory board.

(B) If a request is not valid, the Authority shall respond to the health professional regulatory board providing an explanation for the denial.

(28) Researcher Access. The Authority may provide de-identified data for research purposes to a researcher. A researcher shall submit a research data request form provided by the Authority.

(a) The request shall include but is not limited to a thorough description of the study aims, data use, data storage, data destruction, and publishing guidelines.

(b) The Authority shall approve or deny research data requests based on application merit.

(c) If a request is approved, the requestor shall sign a data use agreement provided by the Authority.

(d) The Authority shall provide the minimum data set necessary that does not identify individuals.

(e) The Authority may charge researchers a reasonable fee for services involved in data access.

Stat. Auth.: ORS 431.962  
Stats. Implemented: ORS 431.962 & 431.966  
Hist.: DMAP 6-2011, f. & cert. ef. 5-5-11

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## Oregon Health Authority, Office of Private Health Partnerships Chapter 442

**Rule Caption:** Amend FHIAP self-employment rules.

**Adm. Order No.:** OPHP 5-2011

**Filed with Sec. of State:** 4-22-2011

**Certified to be Effective:** 4-22-11

**Notice Publication Date:** 4-1-2011

**Rules Amended:** 442-005-0030, 442-005-0070, 442-005-0240

**Subject:** FHIAP is amending:

442-005-0030 – to enable approved FHIAP members to enroll in health insurance more quickly.

442-005-0070 – to streamline and clarify income determination.

442-005-0240 – to clarify pend status.

**Rules Coordinator:** Margaret Moran—(503) 378-5664

### 442-005-0030

#### Application Process

(1) FHIAP will use an application and any documentation required on the application, will be used to determine eligibility and subsidy level.

(2) Applicants may only send in information providing program eligibility during the application process. FHIAP will not accept information sent outside of the application timeframe to use in an audit, appeal or contested case hearing except as provided in OARs' 442-005-0310, 442-005-0320, 442-005-0330 and 442-005-0340.

(3) Program openings occur when funds are available.

(4) Applicants are mailed an application on a first come first serve basis, when there are program openings.

(5) FHIAP reviews applications in the order they are received. Eligibility decisions include:

(a) Approval for immediate subsidy;

(b) Denial; or

(c) Request for more information.

(6) When there are no program openings, FHIAP may approve the application, but the applicant may not be eligible for a subsidy right away. These approved applications are held in a queue. Applicants are mailed a notice when they are able to enroll for subsidies.

(7) Documents that verify required information requested on the application must be provided with the application if FHIAP is not able to verify the information electronically. Required documentation includes but is not limited to:

(a) A copy of a current Oregon identification or other proof of Oregon residency for all adult applicants;

(b) For non-United States citizens, a copy of documentation from the Department of Homeland Security showing their status and when they arrived in the United States.

# ADMINISTRATIVE RULES

(c) Documents verifying all adult applicant's and spouse's earned and unearned income and children's unearned income for the three months prior to the month in which the application is signed. Documentation may include, but is not limited to, pay stubs, award letters, child support documentation and unemployment benefit stubs or printouts. If an applicant or spouse is employed by a business or partnership that is either partially or wholly owned by the applicant or spouse, business documentation as described in OAR 442-005-0070(2)(d) must also be submitted.

(d) A completed Self-Employment Income Worksheet and documents verifying income from self-employment for the six months prior to the signature month on the application for those submitting an income attestation. Documentation may include, but is not limited to, business ledgers, profit and loss statements and bank statements;

(e) A completed Farming and Ranching Income Worksheet and documents verifying income from farming, fishing and ranching for the 12 months prior to the signature month on the application for those submitting an income attestation. Documentation may include, but is not limited to, business ledgers, profit and loss statements and bank statements;

(f) The most recently filed federal tax return and all schedules for applicants who have income from self-employment, fishing, farming, or ranching, rentals, royalties, interest and dividends.

(g) A copy of any group insurance handbook, summary, or contract that is available to any applicant.

(h) A completed Group Insurance Information (GII) form, if the applicant has group insurance available to them.

(i) For applicants with no income, the completed No Income form or other signed statement explaining how the applicant is meeting their basic needs, such as food, clothing and shelter.

(8) Additional verification must be provided when FHIAP requests it.

(9) FHIAP may verify any factors affecting eligibility, benefit levels or any information reported, such as:

(a) Data or other information received by FHIAP that is inconsistent with information on the FHIAP application.

(b) Information provided on the application is inconsistent;

(c) Information reported on previous applications that is inconsistent with a current FHIAP application.

(10) FHIAP may decide at any time during the application process that additional eligibility factors must be verified.

(11) FHIAP may deny an application or end ongoing subsidy when acceptable verification or required documentation is not provided.

Stat. Auth.: ORS 735.734, 735.722(2) & 735.728(2)

Stats. Implemented: ORS 735.720 - 735.740

Hist.: IPGB 2-2006, f. & cert. ef. 6-1-06; OPHP 6-2010(Temp), f. & cert. ef. 10-11-10 thru 4-8-11; OPHP 1-2011(Temp), f. & cert. ef. 1-5-11 thru 4-8-11; Administrative correction 4-25-11; OPHP 5-2011, f. & cert. ef. 4-22-11

## 442-005-0070

### Income Determination

(1) In order to qualify for FHIAP, an applicant must have average monthly gross income, from all sources, through 200 percent of the federal poverty level in effect at the time of eligibility determination. Subsidies will be approved on a sliding scale determined by income and family size. Income from more than one source will be determined individually based on the criteria for each source and the results totaled for a final average monthly income amount. For the purposes of FHIAP, there are six primary categories of income; these categories are:

(a) Earned and unearned income from non-self-employment sources.

(b) Self-employment and fishing income.

(c) Farming and ranching income.

(d) Income to owners of corporations and/or partnerships.

(e) Rental and royalty income.

(f) Interest and dividend income.

(2) FHIAP will determine into which category or categories an applicant's income falls and treat each type of income appropriately. FHIAP will determine the applicant's income eligibility according to the following detail:

(a) For earned and unearned income from non-self-employment sources, average gross monthly income will be determined using income received in the three-calendar months prior to the month in which the application was signed.

(b) For self-employment and fishing, average income will be determined using figures from the applicant's most recently filed federal Schedule C or C-EZ.

(c) For farming and ranching, income will be determined using figures from the applicant's most recently filed federal Schedule F.

(d) For owners of corporations and partnerships, income will be determined using wages paid to the applicant(s) plus any payments made from

business funds for personal expenses in the three-calendar months prior to the month in which the application was signed. The following documents are required for eligibility determination:

(A) Owners of corporations must submit the corporation's most recently filed federal taxes with all schedules.

(B) Owners of partnerships must submit the partnerships most recently filed federal taxes with all schedules.

(C) Owners of either corporations or partnerships must submit three months of both personal and business bank statements.

(e) Income from rentals and royalties will be determined using figures from the applicant's most recently filed federal Schedule E.

(f) Income from interest and dividends will be determined using figures from the applicant's most recently filed federal Schedule B, C, D, or 1099 DIV.

(3) In the event the taxes of an applicant with income in categories (1)(b) and (1)(c) do not reflect the applicant's current income, the applicant may submit an attestation of their income with documentation of their income for the previous six months for self-employed applicants or 12 months for farming, fishing and ranching applicants.

(a) Documentation includes but is not limited to business ledgers, profit and loss statements and bank statements.

(b) Average adjusted income will be determined by either method described below as specified by the applicant on the Self-Employment or Farming, Ranching and Fishing Income Worksheet. Whichever method the applicant chooses to use will be the method used throughout that year's eligibility determination, including appeal and contested case hearing processes.

(A) Income received from farming, fishing, ranching and self-employment will be reduced by 50 percent for business expenses; or

(B) Income received from farming, fishing, ranching or self-employment will be reduced by the actual allowable expenses incurred during the six or 12 months prior to the month in which the application was signed. Allowable expenses are listed on the Self-Employment or Farming, Ranching and Fishing Income Worksheets.

(c) Attestations are subject to future audit for accuracy. The file may be referred for collection if misrepresentation or overpayment are found.

(4) Income is available immediately upon receipt, or when the applicant has a legal interest in the income and the legal ability to make the income available, except in the following situations when it is considered available as indicated:

(a) For earned and unearned income:

(A) Income available prior to any deductions such as garnishments, taxes, payroll deductions, or voluntary payroll deductions will be considered as available; however, support payments as defined in OAR 442-005-0010(25) may be deducted from gross income if the applicant is able to prove the payments were made.

(B) Income usually paid monthly or on some other regular schedule, but paid early or late is treated as available on the regular payday.

(C) Payments made in a "lump sum" will be divided out over the number of months the payment is for. "Lump sum" payments will only be divided if the applicant can provide proof of the period for which the payment was made.

(b) Earned income is available as follows:

(A) Income withheld or diverted at the request of an employee is considered available in the month the wages would have been paid;

(B) An advance or draw that will be subtracted from later wages is available when received; and

(c) Payments that should legally be made directly to an applicant, but are paid to a third party on behalf of an applicant, are considered available the date that is on the check or stub.

(6) Income is not available if:

(a) The wages are withheld by an employer, with the exception of garnishment, even if in violation of the law;

(b) The income is paid jointly to the applicant and other individuals and the other individuals do not pay the applicant his/her share; and

(c) It is received by a separated spouse. FHIAP will determine when an applicant's spouse is deemed separated for purposes of this subsection (5)(c).

Stat. Auth.: ORS 735.734 & 735.720 - 735.740

Stats. Implemented: ORS 735.720 - 735.740

Hist.: IPGB 2-2006, f. & cert. ef. 6-1-06; OPHP 5-2011, f. & cert. ef. 4-22-11

## 442-005-0240

### Redetermination for Health Insurance Subsidy

(1) Eligibility for subsidy lasts for a maximum of twelve months.

# ADMINISTRATIVE RULES

(2) Members must reapply for subsidy once every 12 months after receiving their initial approval.

(3) FHIAP will send members an application at least 60 calendar days before their subsidy eligibility ends. The application will be mailed to the last known address of the member. The information provided by the member on this application will be used to determine the family's eligibility for the next 12 months.

(4) FHIAP will review eligibility during the redetermination process using the same requirements as outlined in OAR 442-005-0030.

(5) The application is mailed with a letter, outlining the review process and the due date for return of the redetermination materials.

(6) The member will have at least 45 calendar days from the date the application is mailed to return the redetermination materials. If the redetermination materials are not postmarked, hand or electronically delivered within 30 calendar days, FHIAP will mail a notice to the member reminding them to return their application by the due date.

(7) If the redetermination materials are not postmarked by the due date, the application is denied and the applicant must make a new reservation in order to receive an application as space permits.

(8) Once the completed application materials are received FHIAP will take action on it. The action may be approval, denial, or a request for further information from the applicant.

(a) Redetermination that requires more information to determine FHIAP eligibility will be placed in a "pend" status.

(b) Whenever further information is requested by FHIAP during the redetermination process, the applicant has 45 calendar days following the date of the request to provide the additional information. If the information requested by FHIAP is not postmarked, hand or electronically delivered within 30 calendar days from the date on the request, FHIAP will mail a notice reminding the member of the due date.

(c) If a member does not provide all requested information within 45 calendar days of the initial request, the redetermination will be denied.

(d) Once a member has been denied because they failed to respond to the request for further information, the member must make a new reservation request to FHIAP to be sent an application in the future. Their name may be placed on the reservation list in the manner prescribed in OAR 442-005-0020.

(9) If a member is denied continued eligibility during the redetermination process, FHIAP will notify the member in writing of the reason for the denial, the effective date of the action, a phone number and resource for questions, and appeal and contested case hearing rights.

Stat. Auth.: ORS 735.734 & 735.720 - 735.740

Stats. Implemented: ORS 735.720 - 735.740

Hist.: IPGB 2-2006, f. & cert. ef. 6-1-06; OPHB 5-2011, f. & cert. ef. 4-22-11

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## Oregon Health Authority, Oregon Educators Benefit Board Chapter 111

**Rule Caption:** Amended to update and incorporate policies and By-laws into rule.

**Adm. Order No.:** OEBB 9-2011

**Filed with Sec. of State:** 5-3-2011

**Certified to be Effective:** 5-3-11

**Notice Publication Date:** 1-1-2011

**Rules Amended:** 111-002-0005

**Subject:** The amendments to 111-002-0005 include early retirees and dependents as well as the educational entities that we provide services to and ultimately impact. Other amendments to this rule also include statements about what authority may be delegated to staff. Previously, this was in the OEBB By-laws but did not exist in rule. These amendments incorporate into rule several statements that are written in policy or the Board By-laws. Based upon this new knowledge and the review of our rules, it was determined that this is very important to include several statements that guide our administrative process into rule. All amendments have been reviewed by DOJ.

**Rules Coordinator:** April Kelly—(503) 378-6588

### 111-002-0005

#### Powers and Duties of the Board

(1) Pursuant to ORS 243.864, it will be within the powers and duties of the Board to study all matters connected with providing adequate benefit plan coverage for Eligible Employees, Early Retirees and their

Dependents, with concern for the welfare of the Employees, Early Retirees and their Dependents and affordability for the Educational Entities.

(2) The board will design benefit plans, devise specifications, invite proposals, analyze responses to requests for proposals, and decide on the award of contracts for benefit plan coverage of Eligible Employees, Early Retirees and their Dependents.

(3) The Board will work collaboratively with Educational Entities, members, carriers and providers to offer value-added benefit plans that support improvement in members' health status, hold carriers and providers accountable for outcomes, and provide affordable benefits and services. The board will place emphasis on:

(a) Employee choice among high-quality benefit plans;

(b) A competitive marketplace;

(c) Benefit plan performance and information;

(d) Educational Entity flexibility in benefit plan design and contracting;

(e) Quality customer services;

(f) Creativity and innovation;

(g) Benefit plans as part of total employee compensation;

(h) Improvement of employee health;

(i) An innovative delivery system;

(j) A focus on improving quality and outcomes;

(k) Promotion of health and wellness;

(l) Appropriate provider, health plan, and consumer incentives;

(m) Accessible and understandable information about costs, outcomes, and other health data; and

(n) Benefits that are affordable to the Educational Entities and Employees, Early Retirees and their Dependents.

(4) The Board may retain consultants, brokers, or other advisory personnel as it determines necessary and will employ such personnel as are required to perform the functions of the Board.

(5) The Board may delegate authority to the Administrator and Staff to complete duties described in (2)-(4) above.

Stat. Auth.: ORS 243.864 - 243.886

Stats. Implemented: ORS 243.864

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEBB 1-2008, f. & cert. ef. 1-4-08; OEBB 17-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 9-2011, f. & cert. ef. 5-3-11

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**Rule Caption:** Amendments to procurement and contracting rules per DOJ review.

**Adm. Order No.:** OEBB 10-2011

**Filed with Sec. of State:** 5-3-2011

**Certified to be Effective:** 5-3-11

**Notice Publication Date:** 1-1-2011

**Rules Adopted:** 111-005-0047, 111-005-0055, 111-005-0080

**Rules Amended:** 111-005-0010, 111-005-0015, 111-005-0020, 111-005-0040, 111-005-0042, 111-005-0044, 111-005-0046, 111-005-0050

**Rules Repealed:** 111-005-0060, 111-005-0070

**Subject:** All amendments made to OEBB's division 5 are changes that were reviewed by DOJ. These amendments clarify that the DOJ Model Public Contract Rules apply when OEBB's and DAS' procurement and contracting rules do not. In addition, amendments made to division 5 have been updated to reflect the more detailed standards now found in the state public contracting and procurement rules and statutes.

**Rules Coordinator:** April Kelly—(503) 378-6588

### 111-005-0010

#### Policy

The policy of the Oregon Educators Benefit Board (OEBB) is to select contractors and consultants in an expeditious, fair, and efficient manner that is consistent with the goal of delivering high-quality benefits and other services at a cost that is affordable to the Employees, Early Retirees and their Dependents and Educational Entities, and meets the requirements of ORS 243.866. The Board may enter into more than one contract for each type of benefit plan or other service sought.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEBB 1-2008, f. & cert. ef. 1-4-08; OEBB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 10-2011, f. & cert. ef. 5-3-11

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## 111-005-0015

### Renewal, Screening and Selection for Benefits, Vendor and Personal Services Contracts

(1) The Board is charged with the obligation of obtaining Benefit Plans to provide Benefits to Eligible Employees, Early Retirees and their Dependents. OARs 111-005-0040 through 111-005-0080 set forth the screening, selection and renewal process to be used for all such Benefit Plan contracts. The Board has sole authority for procuring all benefits and services contemplated by ORS 243.860 through ORS 243.886.

(2) Except as provided in OARs 111-005-0040 through 111-005-0080, the Board adopts the DOJ model public contract rules in OAR 137, division 46 (General Provisions Related to Public Contracting) and division 47 (Public Procurements for Goods or Services), effective June 15, 2010, as the contracting rules that shall apply to its procurements for Benefit Plan contracts.

(3) The Board adopts the DOJ model public contract rules in OAR 137, division 46 (General Provisions Related to Public Contracting) and division 47 (Public Procurements for Goods or Services), effective April 15, 2011, as the contracting rules that shall apply to its procurements for vendor and personal service contracts within the Board's contracting authority.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEBB 1-2008, f. & cert. ef. 1-4-08; OEBB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 10-2011, f. & cert. ef. 5-3-11

## 111-005-0020

### Definitions

For the purposes of OARs 111-005-0010, 111-005-0015 and 111-005-0040 through 111-005-0080 the following definitions will apply:

(1) "Apparent successful proposer" or "ASP" means the organization selected as a result of a competitive and completed procurement process.

(2) "Consultant" means brokers or other advisory personnel hired by the Board to:

(a) Assist in acquiring adequate benefit plan coverage for eligible Educational Entity Employees, Early Retirees and their Dependents;

(b) Assist in the study of all matters connected with the provision of adequate benefit plan coverage for eligible Educational Entity Employees, Early Retirees and their Dependents;

(c) Assist in the development and implementation of decision-making processes;

(d) Design and implement additional programs to review, monitor and assist in the improvement of eligible Educational Entity Employees, Early Retirees and their Dependents health; and

(e) Provide other services as required by the Board.

(3) "Contractor" means an individual or firm who provides services to the Board under a public contract.

(4) "Emergency" means circumstances that:

(a) Could not have been reasonably foreseen;

(b) Create a substantial risk of loss, damage or interruption of Benefits or other services or a substantial threat to property, public health, welfare or safety; and

(c) Require prompt execution of a contract to remedy the condition.

(5) "Extensive procurement" means the process of soliciting proposals and bids and selecting a contractor for services amounting to \$150,000 and over.

(6) "Intermediate procurement" means the process of soliciting proposals and bids and selecting a contractor for services amounting to under \$150,000 but over \$5,000.

(7) "ORPIN" means the Oregon Procurement Information Network, an online service operated by the Department of Administrative Services that displays procurements and contracts issued by the state of Oregon's agencies.

(8) "Person" means a natural person capable of being legally bound, a sole proprietorship, a corporation, a partnership, a limited liability company or partnership, a limited partnership, a for-profit or nonprofit unincorporated association, a business trust, two or more persons having a joint or common economic interest, any other person with legal capacity to contract or a public body.

(9) "Proposal" means a competitive document, binding on the proposer and submitted in response to a Request for Proposal.

(10) "Proposer" means a Person submitting a proposal in response to a Request for Proposal.

(11) "Renewal contractor" means a contractor or consultant who provided the same or similar employee benefit plan or other services under a contract with the Board in the plan year immediately prior.

(12) "Request for Proposal" or "RFP" means all documents, whether attached or incorporated by reference, used for soliciting proposals.

(13) "Responsible proposer" means a person who meets the standards of responsibility described in OAR 111-005-0055.

(14) "Responsive proposal" means a proposal that substantially complies with the request for proposals and all prescribed procurement procedures and requirements.

(15) "Selection committee" means the group of individuals appointed by the Board Chair or approved by the Board to review, evaluate and score proposals received as part of an intermediate or extensive procurement.

(16) "Small procurement" means the process of securing contractors or consultants for services amounting to \$5,000 or less.

(17) "Sole source" means the only contractor or consultant of a particular product or service reasonably available.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEBB 1-2008, f. & cert. ef. 1-4-08; OEBB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 10-2011, f. & cert. ef. 5-3-11

## 111-005-0040

### Extensive Procurement Process

The Board will use the following procedure except as provided for under OAR 111-005-0046 or 111-005-0048.

(1) Announcement. The Board will post solicitation notices for benefits via the Oregon Procurement and Information Network (ORPIN). The Board may also post solicitation notices for benefits in trade periodicals or newspapers of general or specialized circulation. The solicitation notice will include a description of the benefits or services sought, the scope of the services required, evaluation and selection criteria, and a description of any special requirements. The notice will invite qualified prospective proposers to submit proposals. The notice will specify when and where to obtain the RFP, where to return the proposal, the method of submission, and the closing date.

(2) No remuneration will be offered to prospective proposers for attendance, travel, document preparation, etc. Unless otherwise specified in the RFP, the pre-proposal conference will:

(a) Be voluntary; and

(b) Be held in Salem, Oregon.

(3) RFP protest; request for change or request for clarification.

(a) Protest.

(A) A proposer may deliver a protest to the Board not less than ten calendar days prior to closing, unless otherwise specified in the RFP.

(B) Proposer protests must be in writing and must include:

(i) A detailed statement of the legal and factual grounds for the protest;

(ii) A description of the resulting prejudice to the proposer; and

(iii) A statement of the desired changes to the RFP.

(C) The Board will not consider a proposer's protest after the submission deadline.

(i) The Board will provide notice to the applicable entity if it entirely rejects a protest. If the Board agrees with the entity's protest, in whole or in part, the Board will issue an addendum reflecting its determination under OAR 137-030-0055 and 137-047-0430 or cancel the solicitation under 137-030-0115.

(ii) If the Board receives a written protest from a proposer according to this rule, the closing may be extended if the Board determines an extension is necessary to consider the protest and to issue any addendum to the RFP.

(b) Request for change.

(A) A proposer may request in writing a change to the RFP specifications, unless otherwise specified in the RFP. If the RFP allows a proposer to make a request for changes and does not specify otherwise, proposer must deliver the written request for change to the Board not less than ten calendar days prior to closing.

(B) A proposer's written request for change must include a statement of the requested changes to the RFP specifications, including the reason for the requested change.

(C) The Board will not consider a proposer's request for change after the submission deadline.

(i) The Board will provide notice to the applicable entity if it entirely rejects a change. If the Board agrees with the entity's request for change, in whole or in part, the Board will issue an addendum reflecting its determination under OAR 137-030-0055 and 137-047-0430 or cancel the solicitation under 137-030-0115.

(ii) If the Board receives a written request for a change from a proposer according to this rule, closing may be extended if the Board deter-

# ADMINISTRATIVE RULES

mines an extension is necessary to consider the request and to issue any addendum to the RFP.

(c) Request for clarification.

(A) A proposer may request in writing clarification of the RFP specifications, unless otherwise specified in the RFP. If the RFP allows a proposer to make a request for clarification and does not specify otherwise, a proposer must deliver the written request for clarification to the Board not less than ten calendar days prior to closing.

(B) A proposer may request that the Board clarify any provision of the RFP.

(C) The Board will not consider a proposer's request for clarification after the submission deadline. The Board's clarification to a proposer, whether orally or in writing, does not change the RFP and is not binding on the Board unless the Board amends the RFP by addendum.

(4) Addenda to an RFP following an appeal or request for change or clarification.

(a) Issuance; receipt. The Board may change an RFP only by written addenda. A proposer must provide written acknowledgement of receipt of all issued addenda with its proposal, unless the Board otherwise specifies in the addenda.

(b) Notice and distribution. The RFP must specify how the Board will provide notice of addenda and how the Board will make the addenda available.

(c) Timelines; extensions. The Board will issue addenda within a reasonable time to allow prospective proposers to consider the addenda in preparing their proposals. The Board may extend the closing if the Board determines prospective proposers need additional time to review and respond to addenda. The Board will not issue addenda less than 72 hours before the closing unless an addendum also extends the closing, except to the extent required by public interest.

(d) Request for change or protest. A proposer may submit a written request for change or protest to the addendum by the close of the Board's next business day after issuance of the addendum, unless a different deadline is set forth in an addendum.

(5) Submission. All proposals submitted must comply with the procurement's specifications.

(a) If portions of the proposal to any solicitation are deemed unacceptable or non-responsive to the specifications of the solicitation, the proposal will be deemed non-responsive and will not be given further evaluation or consideration. If a proposal to any solicitation is delivered late, it will be deemed non-responsive to the specification of the solicitation and will be returned to the proposer unopened.

(b) Submission of proposals must be in written hard copy or electronic format and delivered, as required by the specifications of the solicitation. OEBC is not responsible for unreadable or incomplete electronic transmissions of proposals or for electronic transmissions that are not received by the designated OEBC recipient by the closing date and time stated in the RFP.

(6) Evaluation. The Selection Committee will evaluate proposals only in accordance with criteria set forth in the RFP and applicable law. The Selection Committee and/or Consultants will provide their recommendations to the Board on the apparent successful proposer(s).

(7) Rejection of proposal. The Board may reject any proposal for good cause and deem it as non-responsive upon written finding that it is in the states', Educational Entities', or Employees, Early Retirees and their Dependents' interest to do so or acceptance of the proposal may impair the integrity of the procurement process. The Board will notify the proposer of its rejection of the proposal in writing and provide the good cause justification and finding. OEBC is not liable to any Proposer for any loss or expense caused by or resulting from any rejection, cancellation, delay or suspension. Without limiting the generality of the foregoing, the Board may reject any Proposal upon OEBC's finding that the Proposal:

(a) Is contingent upon OEBC's acceptance of terms and conditions (including Specifications) that differ from the RFP;

(b) Takes exception to terms and conditions set forth in the RFP;

(c) Attempts to prevent public disclosure of matters in contravention of the terms and conditions of the RFP or in contravention of applicable law;

(d) Offers services that fail to meet the specifications of the RFP;

(e) Is late;

(f) Is not in substantial compliance with the RFP;

(g) Is not in substantial compliance with all prescribed procurement procedures;

(h) Is from a Proposer that has been debarred as set forth in ORS 279B.130;

(i) Has failed to provide the certification of non-discrimination required under ORS 279A.110(4); or

(j) Is from a Proposer found non-responsible as described in OAR 111-005-0055.

(8) Intent to award, discuss or negotiate. After the protest period provided in subsection (3)(a) expires, or after the Board has provided a final response to any protest, whichever date is later, the Board may engage in discussions and negotiations with proposers in the competitive range.

(9) Discussions and negotiations. If the Board chooses to enter into discussions and negotiations with the Proposers in the competitive range, the Board will proceed as follows:

(a) Initiating discussions. The Board must initiate oral or written discussions and negotiations with all of the proposers in the competitive range regarding their proposals.

(b) Conducting discussions. The Board may conduct discussions and negotiations with each proposer in the competitive range as necessary to fulfill the purposes of this section, but need not conduct the same amount of discussions or negotiations with each proposer. The Board may terminate discussions and negotiations with any proposer in the competitive range at any time. All proposers in the competitive range will be offered the opportunity to discuss their proposals with the Board before the Board notifies proposers of the award decisions. In conducting discussions, the Board and any designated representatives:

(A) Will treat all proposers fairly and will not favor any proposer over another.

(B) Will not discuss proposers' proposals with any other proposers and will maintain all proposals as confidential documents to the extent permitted by the Public Records Law.

(C) Will not divulge the name of the proposers or the content of the proposals until cost negotiations are complete or an apparent successful proposer has been announced.

(D) Will determine whether other factors, including but not limited to, Oregon residency of the primary business office and proposer demonstration of services and products, will be used to determine the apparent successful proposer, if a tie between proposers occurs.

(c) At any time during the period allowed for discussions and negotiations, the Board may:

(A) Continue discussions and negotiations with a particular proposer or proposers; or

(B) Terminate discussions with a particular proposer and continue discussions with other proposers in the competitive range.

(d) The Board may continue discussions and negotiations with proposers until determining who will be awarded contracts.

(10) Notice of intent to award. The Board will provide written notice to all proposers of intent to award the contract, unless otherwise provided in the RFP. The Board's award will not be final until the later of the following:

(a) Seven calendar days after the date of the notice, unless the RFP provided a different period for protest; or

(b) The Board's written response to all timely filed protests that denies the protests and affirms the award.

(11) Right to protest award. An adversely affected or aggrieved proposer may submit to the Board a written protest of the Board's intent to award. The protest must be made within seven calendar days after issuance of the notice of intent to award the contract, unless otherwise specified in the RFP.

(a) The proposer's protest must be in writing and must specify the grounds upon which the protest is based.

(b) A proposer is adversely affected or aggrieved only if the Proposer would be eligible to be awarded the contract in the event that the protest were successful, and the reason for the protest is that:

(A) All higher ranked Proposals are nonresponsive;

(B) OEBC has failed to conduct the evaluation of Proposals in accordance with the criteria or processes described in the RFP;

(C) OEBC has abused its discretion in rejecting the protestor's Proposal as nonresponsive; or

(D) OEBC's evaluation of Proposals or OEBC's subsequent determination of award is otherwise in violation of OEBC's rules or ORS 243.886.

(c) The Board will not consider a protest submitted after the time period specified in this section or a different period if provided in the RFP.

(d) The Board Chair, or designee, has the authority to settle or resolve a written protest meeting the submission requirements of this rule.



# ADMINISTRATIVE RULES

(e) If a protest is not settled, the Board Chair, or designee, will promptly issue a written decision on the protest. Judicial review of this decision will be available if provided by statute.

(12) Award of contracts. The Board will approve the apparent successful proposer(s) based on the Selection Committee and/or Consultants recommendation and the evaluation criteria included in OAR 111-002-0005(3) and the RFP including, but not limited to, contractor or consultant availability; capability; experience; approach; compensation requirements; previous litigation and remedy applied; customer service history with the OEBB, members and clients; debarment status; and references.

(13) Confidentiality: Until after the notice of intent to award and contract is issued, Proposals are not required to be open for public inspection, and OEBB shall in good faith seek to protect Proposals from disclosure under ORS 192.502(4) as a confidential submission or under other applicable exemptions from disclosure. After the notice of intent to award and contract is issued, OEBB may withhold from disclosure to the public, materials included in a Proposal that are exempt or conditionally exempt from disclosure under ORS 192.501 or 192.502.

(14) Contract. The successful proposer must promptly execute the contract after the award is final and all contractual terms and conditions have been negotiated and agreed upon. The Board Chair, or designee, will execute the contract only after it has obtained all applicable required documents and contractor signatures.

Stat. Auth.: Ch. 7 OL 2007  
Stats. Implemented: Sec. 19, Ch. 7 OL 2007  
Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEBB 1-2008, f. & cert. ef. 1-4-08; OEBB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 10-2011, f. & cert. ef. 5-3-11

## 111-005-0042 Intermediate Procurement Process

For an intermediate procurement, the Board will use the following procedure except as provided for under OAR 111-005-0046 or 111-005-0048.

(1) Announcement. The Board will post solicitation notices for benefits via the Oregon Procurement and Information Network (ORPIN). The Board may also post solicitation notices for benefits in trade periodicals or newspapers of general or specialized circulation. The notice will include a description of the benefits or services sought, the scope of the services required, and a description of any special requirements. The notice will invite qualified prospective proposers to submit proposals. The notice will specify when and where to obtain the RFP and return the proposal and the closing date.

(2) Submission. All submitted proposals must comply with the RFP's specifications. If portions of the proposal to any solicitation are deemed unacceptable or non-responsive to the specifications of the solicitation, the proposal will be deemed non-responsive and will not be given further evaluation or consideration. If a proposal to any solicitation is delivered late, it will be deemed non-responsive to the specification of the solicitation and will be returned to the proposer unopened.

(a) Submission of proposals must be in written hard copy or electronic format and delivered as required by the specifications of the solicitation. OEBB is not responsible for unreadable or incomplete electronic transmissions of proposals or for electronic transmissions that are not received by the designated OEBB recipient by the closing date and time stated in the RFP.

(b) The proposal from the prospective proposer will describe the proposer's credentials, performance data and other information sufficient to establish proposer's qualifications for providing the benefits sought and all other information requested in the RFP.

(3) Evaluation. The Selection Committee will evaluate proposals only in accordance with criteria set forth in the RFP and applicable law. The Selection Committee and/or Consultants will provide their recommendations to the Board on the apparent successful proposer(s).

(4) Discussions and negotiations. If the Board chooses to enter into discussions and negotiations with the proposers, the Board:

(a) Will treat all proposers fairly and will not favor any proposer over another.

(b) Will not discuss proposers' proposals with any other proposers and will maintain all proposals as confidential documents.

(c) Will not divulge the name of the proposers or the content of the proposals until cost negotiations are complete.

(d) Will determine whether other factors, including but not limited to, Oregon residency of the primary business office and proposer demonstration of services and products, will be used to award the contract.

(5) Notice of intent to award. The Board will provide written notice to all proposers of intent to award the contract, unless otherwise provided in

the RFP. The Board's award will not be final until the later of the following:

(a) Seven calendar days after the date of the notice, unless the RFP provided a different period for protest; or

(b) The Board's written response to all timely filed protests that denies the protests and affirms the award.

(6) Right to protest award. An adversely affected or aggrieved proposer may submit to the Board a written protest of the Board's intent to award. The protest must be made within seven calendar days after issuance of the notice of intent to award the contract, unless otherwise specified in the RFP.

(a) The proposer's protest must be in writing and must specify the grounds upon which the protest is based.

(b) A proposer is adversely affected or aggrieved only if:

(A) the proposer is eligible for award of the contract as a responsible proposer; and

(B) the Board committed a substantial violation of a provision in the RFP or of an applicable procurement statute or administrative rule.

(c) The Board will not consider a protest submitted after the time period specified in this section or a different period if provided in the RFP.

(d) The Board Chair, or designee, has the authority to settle or resolve a written protest meeting the submission requirements of this rule.

(e) If a protest is not settled, the Board Chair, or designee, will promptly issue a written decision on the protest. Judicial review of this decision will be available if provided by statute.

(7) Award of contracts. The Board will approve the apparent successful proposer(s) based on the evaluation the Selection Committee and/or Consultant recommendation and the criteria included in OAR 111-002-0005(3) and the RFP including, but not limited to, contractor availability; capability; experience; approach; compensation requirements; previous litigation and remedy applied; customer service history with the OEBB, members and clients; debarment status; and references. The Board will place emphasis on employee choice among high-quality plans, plan performance and information, a competitive marketplace, employer flexibility in plan design and contracting, quality customer service, creativity and innovation and the improvement of employee health.

(8) Confidentiality: Until after the notice of intent to award and contract is issued, Proposals are not required to be open for public inspection, and OEBB shall in good faith seek to protect Proposals from disclosure under ORS 192.502(4) as a confidential submission or under other applicable exemptions from disclosure. After the notice of intent to award and contract is issued, OEBB may withhold from disclosure to the public, materials included in a Proposal that are exempt or conditionally exempt from disclosure under ORS 192.501 or 192.502.

(9) Contract. The successful proposer must promptly execute the contract after the award is final. The Board Chair, or designee, will execute the contract only after it has obtained all applicable required documents and contractor signatures.

(10) An amendment for additional services shall not increase the total contract cost to a sum that is greater than twenty-five percent of the original contract cost.

Stat. Auth.: Ch. 7 OL 2007  
Stats. Implemented: Sec. 19, Ch. 7 OL 2007  
Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEBB 1-2008, f. & cert. ef. 1-4-08; OEBB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 10-2011, f. & cert. ef. 5-3-11

## 111-005-0044 Small Procurement Process

For a small procurement, OEBB may procure contractor services in any manner it deems practical, including by direct selection, negotiation and award.

(1) The Board Chair delegates authority to the OEBB Administrator and Deputy Administrator to enter into contracts on behalf of the Board.

(2) Award of contracts. The OEBB Administrator or Deputy Administrator will base selections on evaluation criteria which may include, but is not limited to, contractor availability; capability; experience; approach; compensation requirements; previous litigation and remedy applied; customer service history with the OEBB, members and clients; debarment status; and references. Emphasis will be placed on quality customer service, creativity and innovation and the improvement of employee health.

(3) Contract. The selected contractor must promptly execute the contract. The OEBB Administrator or Deputy Administrator will execute the contract only after obtaining all applicable required documents and contractor signatures.

# ADMINISTRATIVE RULES

(4) An amendment for additional services shall not increase the total contract cost to a sum that is greater than twenty-five percent of the original contract cost.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEBB 1-2008, f. & cert. ef. 1-4-08; OEBB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 10-2011, f. & cert. ef. 5-3-11

## 111-005-0046

### Sole Source Procurement Process

The Board may award a contract for Benefits without competition when the Administrator of OEBB determines in writing that the services are available from only one source, or the contractor is defined as a Qualified Rehabilitation Facility as defined in Oregon's public contracting code.

(1) The determination of a sole source must be based on written findings that may include:

(a) That the efficient utilization of existing services requires the acquisition of compatible services;

(b) That the services required for the exchange of software or data with other public or private agencies are available from only one source;

(c) That the services are for use in a pilot or an experimental project; or

(d) Other findings that support the conclusion that the goods or services are available from only one source.

(2) To the extent reasonably practical, OEBB shall negotiate with the sole source to obtain contract terms advantageous to OEBB.

(3) Contract. The single source provider must promptly execute the contract after the award is final. The Board Chair, or designee, will execute the contract only after it has obtained all applicable required documents and contractor signatures.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEBB 1-2008, f. & cert. ef. 1-4-08; OEBB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 10-2011, f. & cert. ef. 5-3-11

## 111-005-0047

### Renewal Process

(1) If the Board does not issue an RFP or Single Source procurements to solicit formal proposals from qualified potential Contractors or Vendors, the Board may directly negotiate and enter into renewal contracts each plan year with renewal contractors to provide Benefits and other services without following the procedures set forth in sections 111-005-0040.

(2) The Board may renew contracts with renewal contractors for as many years as the Board determines is in the best interest of the state, Educational Entities and Employees, Early Retirees and their Dependents.

(3) The Board may invite renewal Proposals from those Contractors or Vendors who provided the same or similar employee Benefit Plan or other services in the year immediately prior. An employee Benefit Plan or other services contract is similar if it is reasonably related to the scope of work described in the procurement under which such a contract was awarded.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864

Hist.: OEBB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 10-2011, f. & cert. ef. 5-3-11

## 111-005-0050

### Mistakes

(1) Treatment of mistakes. If the OEBB discovers certain mistakes in a proposal before award of the contract, and the mistakes are not identified as those qualifying as non-responsive to the specifications of the procurement, the OEBB may take the following action:

(a) Waive or permit a proposer to correct a minor informality. A minor informality is a matter of form rather than substance that is evident on the face of the proposal, or an insignificant mistake that can be waived or corrected without prejudice to other proposers. Mistakes including, but not limited to, signatures not affixed to the proposal document, proposals sent to the incorrect address, insufficient number of proposals submitted, or incorrect format will not be considered minor.

(b) Correct a clerical error if the intended proposal and the error are evident on the face of the proposal, or other documents submitted with the proposal, and the proposer confirms the correction in writing. A clerical error includes, but is not limited to, a proposer's error in transcribing its proposal.

(2) Rejection for mistakes. OEBB may reject any proposal in which a mistake is evident on the face of the proposal and the intended correct proposal is not evident or cannot be substantiated from documents accompa-

nying the proposal. In order to ensure integrity of the competitive procurement process and to assure fair treatment of proposers, mistakes discovered that are contrary to the specifications of the procurement will be carefully reviewed and will be determined, under sole authority of the OEBB, to be waived or not be waived.

(3) If the OEBB discovers mistakes in the proposal after award, and the mistakes are not considered minor, the Board reserves the right to determine if the award will be revoked. The Board will then re-evaluate proposals deemed to be in second, third, fourth, etc., in the standings.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEBB 1-2008, f. & cert. ef. 1-4-08; OEBB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 10-2011, f. & cert. ef. 5-3-11

## 111-005-0055

### Responsible Proposer

(1) Before awarding a Contract, the Board must have information that indicates the Proposer meets the applicable standards of responsibility. OEBB shall prepare a written determination of non-responsibility for a Proposer if OEBB determines that the Proposer does not meet the standards of responsibility.

(2) In determining whether a Proposer has met the standards of responsibility, OEBB shall consider whether a Proposer:

(a) Has available the appropriate financial, material, equipment, facility and personnel resources and expertise, or has the ability to obtain the resources and expertise, necessary to meet all contractual responsibilities.

(b) Completed previous contracts of a similar nature with a satisfactory record of performance. For purposes of this paragraph, a satisfactory record of performance means that to the extent that the costs associated with and time available to perform a previous contract remained within the Proposer's control, the Proposer stayed within the time and budget allotted for the procurement and otherwise performed the contract in a satisfactory manner. OEBB shall document the Proposer's record of performance if OEBB finds under this paragraph that the Proposer is not responsible.

(c) Has a satisfactory record of integrity. OEBB in evaluating the Proposer's record of integrity may consider, among other things, whether the Proposer has previous criminal convictions for offenses related to obtaining or attempting to obtain a contract or subcontract or in connection with the Proposer's performance of a contract or subcontract. OEBB shall document the Proposer's record of integrity if OEBB finds under this paragraph that the Proposer is not responsible.

(d) Is legally qualified to contract with OEBB.

(e) Supplied all necessary information in connection with the inquiry concerning responsibility. If a Proposer fails to promptly supply information concerning responsibility that OEBB requests, OEBB shall determine the Proposer's responsibility based on available information or may find that the Proposer is not responsible.

(f) Was not debarred by OEBB in accordance with ORS 279B.130.

(3) OEBB may refuse to disclose outside of OEBB confidential information furnished by a Proposer under this section when the Proposer has clearly identified in writing the information the Proposer seeks to have treated as confidential and OEBB has authority under ORS 192.410 to 192.505 to withhold the identified information from disclosure.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864

Hist.: OEBB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 10-2011, f. & cert. ef. 5-3-11

## 111-005-0080

### Contract Amendments

OEBB may amend a contract without additional competition in any of the following circumstances:

(1) The amendment is within the scope of the procurement as described in RFP, the sole source determination, or special procurement (the "Procurement Document"). An amendment is not within the scope of the procurement if the Agency determines that if it had described the changes to be made by the amendment in the Procurement Document, it would likely have increased competition or affected award of the contract.

(2) These rules otherwise permit OEBB to award a contract without competition for the goods or services to be procured under the amendment.

(3) The amendment is necessary to comply with a change in law that affects performance of the contract.

(4) The amendment results from renegotiation of the terms and conditions, including the contract price, of a contract and the amendment is advantageous to OEBB, subject to all of the following conditions:

(a) The Services to be provided under the amended contract are the same as the Services to be provided under the unamended contract.

# ADMINISTRATIVE RULES

(b) OEBB determines that, with all things considered, the amended contract is at least as favorable to OEBB as the unamended contract.

(c) The amended contract does not have a total term greater than allowed in the Procurement Document after combining the initial and extended terms.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864

Hist.: OEBB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 10-2011, f. & cert. ef. 5-3-11

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**Oregon Health Authority,  
Public Health Division  
Chapter 333**

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

**Adm. Order No.:** PH 3-2011

**Filed with Sec. of State:** 4-21-2011

**Certified to be Effective:** 4-21-11

**Notice Publication Date:** 3-1-2011

**Rules Amended:** 333-064-0040

**Rules Repealed:** 333-064-0070

**Subject:** The Oregon Health Authority, Public Health Division, Oregon State Public Health Laboratory (OSPHL) is permanently amending OAR 333-064-0040. The amendments will change how labs report results to the Oregon Drinking Water Program to conform to OAR 333-061-0040.

In addition, the OSPHL is repealing 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—(971) 673-1291

## 333-064-0040

### Action Response for Laboratory Drinking Water Analysis Results

(1) If an accredited laboratory is authorized by the water supplier to report results of analyses required by OAR 333-061-0036 and performed by the laboratory directly to the Oregon Health Authority (Authority), then it must do so within 10 days after the end of the month, or within 10 days after the end of the monitoring period.

(2) If a result exceeds the maximum contaminant level (MCL) specified in OAR 333-061-0030:

(a) The accredited lab that issues the final test report must:

(A) Validate the results of any sample analysis and report that analysis directly to the Authority and to the water supplier within 48 hours or two business days of completing the analytical run if the sample analysis:

(i) Exceeds the MCL for nitrate as specified in OAR 333-061-0030(1); or

(ii) Is positive for coliform bacteria.

(B) Report any sample analysis directly to the Authority and to the water supplier within 24 hours or on the next business day after validating a sample result that exceeds the MCL for any chemical analyte specified in OAR 333-061-0030 other than nitrate.

(C) Report any sample analysis directly to the Authority and to the water supplier within 24 hours or on the next business day after obtaining a sample result from a subcontracted laboratory, if the sample analysis:

(i) Exceeds the MCL for nitrate as specified in OAR 333-061-0030(1) or is positive for coliform bacteria; or

(ii) Exceeds the MCL for any chemical analyte specified in OAR 333-061-0030 other than nitrate upon validating the sample analysis.

(b) Accredited, subcontracted laboratories must:

(A) Validate the results of any sample analysis and report that analysis to their client laboratory within 48 hours or two business days of completing the analytical run if the analysis:

(i) Exceeds the MCL for nitrate as specified in OAR 333-061-0030(1); or

(ii) Is positive for coliform bacteria.

(B) Report any sample analysis to their client laboratory within 24 hours or on the next business day after validating a sample result that exceeds the MCL for any chemical analyte specified in OAR 333-061-0030 other than nitrate.

(3) The laboratory must notify the public water system and, if authorized by the water system, the Authority of all unregulated contaminants detected and their concentrations from each specific method used to measure the regulated contaminants.

(4) The laboratory must use report forms that have been approved by the Authority for reporting drinking water test results to the Authority.

Stat. Auth.: ORS 448.150(1) & 448.131

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

Hist.: OH 7-1999, f. & cert. ef. 10-26-99; OH 16-2002, f. & cert. ef. 10-10-02; PH 13-2003(Temp), f. & cert. ef. 9-22-03 thru 3-20-04; PH 20-2003, f. 12-02-03, cert. ef. 12-08-03; PH 3-2011, f. & cert. ef. 4-21-11

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**Oregon Health Licensing Agency  
Chapter 331**

**Rule Caption:** Exempt sleep labs from the definition of respiratory care if certain standards and guidelines are met.

**Adm. Order No.:** HLA 4-2011(Temp)

**Filed with Sec. of State:** 5-10-2011

**Certified to be Effective:** 5-10-11 thru 11-4-11

**Notice Publication Date:**

**Rules Adopted:** 331-705-0071

**Subject:** In November 2010 the Respiratory Therapist Licensing board adopted temporary administrative rules regarding Sleep Lab Exemption, to allow for certain respiratory care services (e.g. positive airway pressure) to be performed by unlicensed individuals in sleep labs under a medical director. The primary purpose for the temporary rule was to allow the 2011 Legislature time to consider licensing polysomnographers or sleep technicians within the Respiratory Therapist Licensing Board. The 2011 Legislative Assembly, Senate Chamber introduced SB 723 which creates the Respiratory Therapist and Polysomnographic Technologist Licensing Board. Currently the bill is moving through the legislative process and is scheduled for a hearing in the Joint Ways and Means, Education Committee. If SB 723 is adopted in law then the permanent rulemaking process will begin in July.

**Rules Coordinator:** Samantha Patnode—(503) 373-1917

## 331-705-0071

### Sleep Lab Exemption

(1) The following are exempt from the definition of Respiratory Care Services under ORS 688.800 when performed in a sleep lab environment:

(a) Positive airway pressure titration on spontaneously breathing patients;

(b) Supplemental low-flow oxygen therapy during polysomnogram (up to 6 liters per minute);

(c) Capnography during polysomnogram;

(d) Cardiopulmonary resuscitation;

(e) Pulse oximetry;

(f) Electrocardiography;

(g) Respiratory effort including thoracic and abdominal;

(h) Plethysmography blood flow;

(i) Nasal and oral airflow monitoring;

(j) Monitoring the effects positive airway pressure, used to treat sleep-related breathing disorders, has on sleep patterns, provided that the device does not extend into the trachea;

(k) Monitoring the effect on sleep patterns of an oral device that does not extend into the trachea and that is used to treat sleep apnea;

(l) Maintenance of nasal and oral airways that do not extend into the trachea;

(m) The use of continuous positive airway pressure and bi-level modalities;

(n) Set-up for use of durable medical equipment; and

(o) Long term follow-up care.

(2) For the purpose of this rule, "sleep lab" is:

(a) A physical space, including any commercial space, used by a hospital for conducting sleep testing and under the supervision of a medical director; or

(b) A facility accredited by the American Academy of Sleep Medicine (AASM) for conducting sleep testing under the supervision of a medical director.

(c) A facility provisionally accredited by the AASM for conducting sleep testing under the supervision of a medical director.

(3) For purpose of this rule, "medical director" means the medical director of any inpatient or outpatient facility or department who is a physician licensed by the State of Oregon and who has special interest and knowledge in the diagnosis and treatment of sleep disorders.

(4) For the purpose of this rule, "sleep lab" does not include the home environment.

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(5) The exemption under this rule does not include partial or full ventilatory support services involving tidal volume regulation or which require the setting of respiratory back-up rates unless these services are for the treatment of central and mixed sleep apnea.

(6) Sleep labs in operation on the effective date of this rule and seeking exemption under (2)(b) of this rule must be accredited by August 1, 2011. All sleep labs in the accreditation process must adhere to all other requirements of this rule.

(7) All documentation and information regarding the provisional accreditation or accreditation through the AASM must be made available to the agency if requested.

(8) All policies, procedures and protocols for unlicensed individuals related to positive airway pressure treatment and titration including but not limited to central and mixed sleep apnea must be made available to the agency if requested.

Stat. Auth.: ORS 676.606, 676.607, 676.611, 676.615 & 688.830  
Stats. Implemented: ORS 688.800 & 688.605  
Hist.: HLA 4-2011(Temp), f. & cert. ef. 5-10-11 thru 11-4-11

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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.

**Adm. Order No.:** BOC 2-2011

**Filed with Sec. of State:** 5-5-2011

**Certified to be Effective:** 5-5-11

**Notice Publication Date:** 3-1-2011

**Rules Adopted:** 817-030-0071, 817-060-0050

**Rules Amended:** 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

**Rules Repealed:** 817-010-0090, 817-030-0005(T), 817-030-0015, 817-030-0018, 817-030-0020, 817-030-0040, 817-030-0045, 817-030-0055, 817-035-0030, 817-035-0050(T), 817-040-0003(T), 817-060-0050(T)

**Subject: 817-005-0005 Definitions** – Revise to align definitions with statutory requirements, reduce to avoid duplication and modify for readability including defining educational institutions and revising definition of official transcript. Number of definitions reduced from 65 to 49.

**817-010-0065 Safety and Infection Control Rules; Facility Standards** – Revise to align with statutory changes made during the 2009 Legislative Session by revising the name of Certificate of Identification to “Freelance Authorization” and adopt by reference the most current American National Standards for Safe Use of Lasers (ANSI).

**817-020-0006 Facility Licensing and Operational Requirements** – Revise to require, at time of initial application, proof of current registration of business name or Assumed Business Name (ABN) as filed with the Secretary of State, Corporations Division.

**817-030-0005 Qualification for Certification** – Revise to provide clarity on application requirements including pathways to certification. *Pathway 1 Graduate from an Educational Institution* – including a high school, career school, or community college, *Pathway 2 Reciprocity* – if the applicant has a active certification in another state. Requires that all applicants take all pertinent field of practice written examinations and the Oregon laws and rules examination. Delete *Pathway 3 Non-Credentialed* – Because the agency and the board do not have statutory authority to send non-credentialed candidates to a school for additional training or a practical examination. Upon request from the board the Department of Education Private Career Schools may refer the candidate to a career school if documentation listed under ORS 345.400 is not available.

**817-030-0030 General Examination Information** – Merge several rules to make one fluent administrative rule related to exami-

nations including scheduling, languages, computer-based testing, monitoring, prohibitions and consequences.

**817-030-0065 Written Retake Examination Requirements** – Revise to make one section relating to retake examinations including scheduling, and number of failed examinations allowed and procedures for retaking. Also indicates the documentation necessary to take a fourth and seventh examination.

**817-030-0071 Practical Examination Evaluation** – Adopt rule which explains requirements and procedures for having a specific educational institution’s practical examination approved as the Board’s certifying examination.

**817-035-0010 Issuance and Renewal of Certificates, Licenses, Registrations or Freelance Authorizations** – Revise to align renewal with agency standards and protocols. Protocol for practitioner certificate and facility license holder include renew, renew late up to three years, and after three years reapply. Revise to implement new protocols for independent contractors and freelance authorization holders to allow them to enter dormant status. No limit would be applied to the dormancy; however, a fee would be required to renew. Revise renewal requirements related to notification of changes to business name or ABN for facility licenses, independent contractor registrations and freelance authorizations.

**817-035-0050 Application and Criteria for Freelance Authorization** – Align with statutory changes made during the 2009 Legislative Session by revising the name of Certificate of Identification to “Freelance Authorization”. Moved renewal requirements to OAR 817-035-0010. Repealed subsection (7) due to lack of statutory authority to limit where a freelance authorization holder may work. Revise to require, at time of initial application, proof of current registration of business name or ABN as filed with the Secretary of State, Corporations Division if the freelance authorization holder is operating as a business and not as an individual.

**817-035-0070 Independent Contractor Registration Eligibility** – Revise to require, at time of initial application, proof of current registration of business name or ABN as filed with the Secretary of State Corporation Division if the independent contractor registration holder is operating as a business and not as an individual.

**817-035-0110 Posting Requirements** – Revise to align with statutory changes made during the 2009 Legislative Session by revising the name of Certificate of Identification to “Freelance Authorization”. Allow practitioners, independent contractors and freelance authorization holders to cover address posted on their authorization with removable covering. Requires facility owners and independent contractors to post the most recent inspection certificate in public view.

**817-040-0003 Fees** – Revise length of time a specific authorization may be inactive (up to three years). Revise to align with statutory changes made during the 2009 Legislative Session by revising the name of Certificate of Identification to “Freelance Authorization.”

**817-060-0050 Use of Formaldehyde Products** – Adopt permanently by reference the requirement of Oregon OSHA related to the use of formaldehyde.

**Division 90 Civil Penalties** – All rules related to civil penalties have been revised for consistency and accuracy.

**Rules Coordinator:** Samantha Patnode—(503) 373-1917

## 817-005-0005 Definitions

The following definitions apply to OAR chapter 817, divisions 1 through 120.

(1) “Adequate ventilation” means ventilation by natural or mechanical methods which removes or exhausts fumes, vapors, or dust to prevent hazardous conditions from occurring in accordance with OAR 437, Division 2 and/or to allow the free flow of air in a room in proportion to the size of the room and the capacity of the room.

(2) “Affidavit of Licensure” means an original document verifying licensing history and status, including information disclosing all unresolved or outstanding penalties and/or disciplinary actions. The document is issued and signed by the regulatory authority in the state which issued the license with an official seal or stamp affixed to the document; it is not the certifi-

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cate or license form issued which authorizes the holder to practice. Refer to OAR 331-030-0040.

(3) "Agency" means the Oregon Health Licensing Agency. The agency is responsible for the budget, personnel, performance-based outcomes, consumer protection, fee collection, mediation, complaint resolution, discipline, rulemaking and record keeping.

(4) "Approved" means accepted by the Agency, Board of Cosmetology or to the appropriate entity.

(5) "Article" means those items which complement services provided in the practice of barbering, hair design, esthetics or nail technology, including but not limited to neck-strips, neck dusters, towels or linens, and cloth or plastic capes.

(6) "Barbering" has the definition set forth in ORS chapter 690.005.

(7) "Board" means, pursuant to ORS 690.155 and 690.165, the entity that determines practice standards, education and training, and provides consultation to the agency on all disciplinary actions in accordance with ORS 690.167.

(8) "Certificate" means the document authorizing the holder to perform services in a field of practice, i.e. barbering, hair design, esthetics or nail.

(9) "Chemical service" means the use of any product which restrutures or removes hair or changes the shape or appearance of skin, hair or nails.

(10) "Common area" means an area of a facility which is used by all practitioners performing services, including, but not limited to reception areas, dispensing areas, sinks, shampoo bowls, hair dryers and hair dryer areas, and employee lounge areas.

(11) "Communicable disease or condition" means diseases or conditions diagnosed by a licensed physician as being contagious or transmittable which include but are not limited to the following:

- (a) Chickenpox;
- (b) Diphtheria;
- (c) Measles;
- (d) Meningococcal Disease;
- (e) Mumps;
- (f) Pertussis (whooping cough);
- (g) Plague;
- (h) Poison oak;
- (i) Rubella;
- (j) Scabies;
- (k) Staphylococcal skin infection (boils, infected wounds);
- (l) Streptococcal infections (Strep throat);
- (m) Tinea (ring worm);
- (n) Tuberculosis.

(12) "Demonstration permit" means an authorization as defined in ORS 690.005 to practice on a limited basis for a maximum of 30 consecutive days.

(13) "Director" means the individual who is responsible for the performance of the agency as defined in ORS 676.610. The director appoints all subordinate officers and employees to carry out the duties of the agency.

(14) "Disinfect" means to use a process to destroy harmful organisms, including bacteria, viruses, germs and fungi.

(15) "Dispensing area" means an area having non-porous surfaces and a sink with hot and cold running water where service preparations are conducted, such as mixing of chemicals, cleaning of tools and equipment, disposing of residues and rinsing parts of the body exposed to chemicals.

(16) "Disposable towels" means single-use paper towels or roller-type cloth towels furnished by laundries.

(17) "Educational Institution" means an Oregon high school under ORS 336, Oregon career school licensed under ORS 345 or an Oregon community college under ORS 341.

(18) "EPA" means Environmental Protection Agency, a branch of the Federal Government, which approves and registers chemical compounds and agents.

(19) "Equipment" means those items needed to run a facility which includes but is not limited to waiting chairs, barber or style chairs, shampoo chairs, cabinets, sinks, shampoo bowls, stationary dryers, pedi bins or whirlpool foot spas, paraffin wax containers, and nail technology tables.

(20) "Esthetics" has the definition set forth in ORS 690.005.

(21) "Ethical" means conforming to professional standards of conduct in all occupational practices and in accordance with OAR 817, division 120.

(22) "Exfoliate or exfoliation" means the process of sloughing off, removing, or peeling dead skin cells of the epidermis.

(23) "Facility" has the definition set forth in ORS 690.005.

(24) "Field of practice" has the definition set forth in ORS 690.005.

(25) "Fire retardant container" means an air-tight metal or other approved container recognized by a national testing lab for the use of disposing of chemical waste or storing linens with chemical residue.

(26) "Freelance Authorization" means authorization allowing a practitioner to perform services of barbering hair design, esthetics or nail technology outside of a licensed facility.

(27) "Hair design" has the definition set forth in ORS 690.005, which includes the braiding of hair.

(28) "Health care facility" means a facility as defined by ORS 442.015 (16), such as a hospital, special inpatient care facility, rehabilitation center, center for the treatment of alcoholism or drug abuse, assisted living care or nursing facility, or psychiatric hospital, which is licensed by a state regulatory agency or local governmental unit for the purpose of providing health care services.

(29) "High-level disinfectant" means a chemical agent, which has demonstrated tuberculocidal activity and is registered with the EPA.

(30) "Independent Contractor" means an individual defined in ORS 690.005 who qualifies for a recognized business status under the provisions of ORS 670.600.

(31) "License" has the definition set forth in ORS 690.005.

(32) "Low-level disinfectant" means a chemical agent which has demonstrated bactericidal, germicidal, fungicidal, and limited virucidal activity and is registered with EPA.

(33) "Manicuring" means services performed upon the nails of the hands as part of nail technology defined in ORS 690.005.

(34) "Manipulating" means, as referred to in ORS 690.005 articulation or massage, pressure, friction, stroking, tapping or kneading by manual or mechanical means, with or without lubricants such as salts, powders, liquids or creams, for the purpose of providing skin care.

(35) "Materials and supplies" means those items which complement the use of tools, including but not limited to hair tints, bleaches, permanent wave solutions, tonics, hair oils, shampoos, rinses, disinfectants, and chemicals.

(36) "Nail Technology" has the definition set forth in ORS 690.005, which includes the following:

- (a) The application and removal of artificial nails;
- (b) The application of mini-art work, etching or imprinting on nails.

(37) "Official transcript" means:

(a) An original document authorized by the appropriate office in the Oregon Department of Education and certified by an educational institution indicating applicant identity information, field of practice(s) enrolled under, specific hour requirements for each field of practice if applicable, final practical examination scores for each field of practice, enrollment information and a signature by an authorized representative on file with the agency. Original documents must be submitted directly to the agency from the educational institution by United States Postal Service mail or other recognized mail service providers in a sealed envelope; or

(b) A document authorized by the appropriate office in the Oregon Department of Education and certified by an educational institution indicating applicant identity information, field of practice(s) enrolled under, specific hour requirements for each field of practice if applicable, final practical examination scores for each field of practice, enrollment information and a signature by an authorized representative on file with the agency. Non-original documents shall only be accepted when, and in the manner, approved by the Agency.

(38) "Pedicuring" means services performed upon the nails of the feet as part of nail technology defined in ORS 690.005.

(39) "Permit" means either a demonstration permit as defined in subsection (12) or a temporary facility permit as defined in subsection (46) of this rule.

(40) "Practitioner" has the definition set forth in ORS 690.005.

(41) "Premises" means the entire area of the facility, licensed by the agency and designated as a facility.

(42) "Reasonably accessible" means not more than three minutes travel time from any work location.

(43) "Registration" means an authorization to practice in barbering, hair design, esthetics and/or nail technology as an independent contractor.

(44) "Sanitizing container" means a receptacle, holding a disinfecting agent, which is large and deep enough to submerge the tool(s) or implement(s) or portion(s) thereof, which are to be disinfected.

(45) "Sharp edged or pointed, non-electrical tools and implements" means those items which may on occasion pierce or cut the skin and draw blood, includes razors, cuticle nippers, cuticle pushers, nail clippers, tweezers, comedone extractors, shears, and metal nail files.

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(46) "Soiled" means an article that has been used and has not been cleaned or disinfected before use on the next client.

(47) "Temporary facility permit" means an authorization as defined in ORS 690.005, not to exceed 30 consecutive days.

(48) "Tools and implements" means all portable articles and instruments, which the practitioner can carry to use in the performance of services on clients, including but not limited to combs, shears, clippers and yoyettes.

(49) "Work area" means an area where services are performed and preparations are conducted including but not limited to shampoo area, work stations and dispensing area.

Stat. Auth.: ORS 690.165 & 690.205(1)

Stats. Implemented: ORS 690.165 & 690.105(1)

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 1-1982, f. & ef. 1-29-82; BH 2-1982, f. & ef. 3-31-82; BH 1-1983(Temp), f. & ef. 10-4-83; BH 4-1984, f. & ef. 12-7-84; Renumbered from 817-010-0002; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 2-1996, f. 6-28-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2005, f. 6-17-05, cert. ef. 7-1-05; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 1-2009, f. & cert. ef. 6-1-09; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-010-0065

### Requirements and Standards

(1) All tools and implements that come in direct contact with a client, must be disinfected or disposed of after use.

(2) Only disinfecting agents that meet the criteria set forth in OAR 817-005-0005 (29) and (32) are approved for use.

(3) Holders of a facility license, independent contractor registration, or freelance authorization must provide and maintain adequate disinfecting or sterilizing equipment for the number of practitioners, usage requirements, and volume of business.

(4) Optional sterilization equipment used in lieu of disinfectants must be checked annually to ensure it is reaching the temperature and/or pressure required by manufacturer's instructions.

(5) When used according to the manufacturer's instructions, each of the following is an approved method of disinfecting tools and implements:

(a) Complete immersion in the disinfecting solution of the object(s) or portion(s) thereof to be disinfected;

(b) Steam sterilizer, registered and listed with the U.S. Food and Drug Administration; or

(c) Dry heat sterilizer or autoclave, registered and listed with the U.S. Food and Drug Administration.

(6) All disinfecting agents must be kept at adequate strengths to maintain effectiveness, be free of foreign material and be available for immediate use at all times the facility is open for business.

(7) Nail files, cosmetic sponges, buffer blocks, sanding bands or sleeves, orangewood sticks, and disposable nail bits that have not been approved by the agency for disinfection and reuse, must be given to the client or discarded after use on each client. Presence of these articles in the work area (facility) is prima facie evidence of use.

(8) Protective gloves that are not cleaned with soap and water and disinfected must be disposed of after use on a client (refer to provisions of OAR 817-015-0030(3) and (5).

(9) All manual or mechanical devices and equipment used in the practice of barbering, esthetics, hair design or nail technology must meet all "product registration requirements" imposed by any federal, state, county, or local authority.

(10) All manual or mechanical devices or equipment used in the practice of barbering, esthetics, hair design or nail technology must be used in accordance with the "product safety requirements" imposed by any federal, state, county, or local authority.

(11) Each practitioner, facility owner or independent contractor must verify, maintain, or be able to access documentation related to any device classified by the U.S. Food and Drug Administration (FDA) that is used in the practice of barbering, esthetics, hair design, and nail technology, as defined in ORS 690.005.

(12) Practitioners may not use any manual or mechanical device or equipment unless the use is part of the delivery of services within the practitioner's scope of practice under ORS 690, and is consistent with the manufacturer's intended use of the device and with client health and safety. In determining whether the use of any manual or mechanical device or equipment is consistent with client health and safety, the agency will consider the information provided in the documentation required by section (11) of this rule.

(13) The documentation requirements described in section (11) of this rule apply to specialized items used in the practice of barbering, esthetics,

hair design or nail technology and may not apply to those items used in the delivery of basic services, which have been defined as an "article", equipment", or "materials and supplies" in OAR chapter 817, division 005, such as scissors, combs, orangewood sticks, shampoo bowls, styling chairs or nail files.

(14) Practitioners must permit any representative of the agency to inspect any manual or mechanical device or equipment used in the practice of barbering, esthetics, hair design or nail technology or the documentation required by section (11) of this rule, upon demand.

(15) Practitioners, facility owners and independent contractors providing laser hair reduction skin care services, shall comply with requirements of the March 16, 2007 edition of the American National Standards for Safe Use of Lasers (ANSI) Z136.1-2007.

Stat. Auth.: ORS 690.205

Stats. Implemented: ORS 690.205

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 2-1980, f. & ef. 5-29-80; BH 2-1982, f. & ef. 3-31-82; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 4-2001(Temp), f. & cert. ef. 11-1-01 thru 4-29-02; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 1-2008, f. 5-27-08, cert. ef. 6-1-08; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-020-0006

### Facility Licensing and Operational Requirements

Pursuant to ORS 690.055 a facility license must be obtained when operating a business establishment, providing services in one or more fields of practice defined in ORS 690.005.

(1) Subject to ORS 676.612, a facility license may be issued if the applicant:

(a) Is at least 18 years of age, if the applicant is a natural person, and meets requirements of ORS 690.055;

(b) Submits proof of:

(i) A current registration as required by Secretary of State, Corporations Division pursuant to ORS 648.007; and

(ii) A current copy of the Assumed Business Name (ABN) filing if applicant is operating under an assumed business name prior to applying for a facility license.

NOTE: ABN is not required if business includes the real and true name of each owner. Refer to Secretary of State, Corporations Division under ORS 648.005 through 648.990.

(c) Files an application on prescribed forms with the agency and pays the required application and license fees. If the facility is owned by a corporation, the application must state the name of and the form must be signed by the corporate officer;

(d) Complies with all applicable administrative rules and regulations of the Board and other state agencies regarding health, safety, and infection control standards;

(e) Complies with the specifications for building, fire and plumbing codes as specified in OAR 817-010-007, and complies with ventilation, exit and fire standards established by the Department of Consumer and Business, Building Codes Division and Office of the State Fire Marshal;

(f) Provide a map or directions to the facility if it is located in a rural or isolated area; and

(g) Attests that the application information is correct.

(2) License holders must comply with the notification requirements of OAR 331-010-0040.

(3) Facility license holders offering services within the licensed premises, other than those regulated under ORS 690.005, such as massage, tanning, tattooing or body piercing, must ensure compliance with appropriate licensing laws and regulations if required.

(4) Client services referred to in subsection (3) of this rule, must have a treatment area that is separated by a permanent, solid barrier, private or screened from the entrance, waiting area or other treatment areas when cosmetology services regulated under ORS 690.005 are being performed to ensure client privacy and prevent contact with chemical or other air-borne irritants. This does not pertain to sale of products.

(5) Any location where services are performed solely by independent contractors, who are registered by the agency, must be licensed as a facility.

(6) The cleanliness and sanitary condition of any shared or common area used by or provided for separately licensed facilities or independent contractors located at one premises is the responsibility of each license or registration holder at that premises.

(7) All facility license holders and independent contractor registration holders located at one premises will be cited for violations of rules or regulations found in the shared or common area of a facility, unless a contrac-

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tual agreement exists that indicates specific responsibility for the cleanliness of a shared or common area within the premises.

(8) Facility License — Residence.

(9) In addition to the requirements of this rule, applicants for a facility license located within a residence must have an identifying house number or a sign that is easily visible from the street and indicates the location of the facility. The license holder must:

(a) Comply with all applicable regulations of OAR chapter 817, division 010, including maintaining equipment the Board requires for all facilities;

(b) Provide an entrance to the facility that is separate from the entrance to residential living areas; and

(c) Maintain separation between the residential living area and facility by solid walls extending from floor to ceiling, with connection doors kept closed during hours of facility operations and serving clients as required in ORS 690.205.

(10) Inspections and Investigations:

(a) Pursuant to ORS 676.608 or 690.225, a facility owner or license holder must allow the agency's representative to inspect the facility or conduct an investigation. Obstructing or hindering the normal progress of an investigation or the inspection, threatening or exerting physical harm, or enabling another individual or employee to impede an investigation or inspection may result in disciplinary action.

(b) License holders must contact the agency in writing to make arrangements for an inspection if the agency has been unable to perform an inspection after one year because the facility was closed.

Stat. Auth.: ORS 676.605, 690.055 & 690.165, 690.205, 690.225

Stats. Implemented: ORS 676.605, 690.055 & 690.165, 690.205, 690.225

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; Renumbered from 817-020-0005, 817-020-0011, 817-020-0012, BOC 1-2009, f. & cert. ef. 6-1-09; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-030-0005

### Application Requirements

An individual applying for a certification in a field of practice must:

(1) Meet the requirements of OAR 331 division 30;

(2) Submit a completed application form prescribed by the agency, which must contain the information listed in OAR 331-030-0000 and be accompanied by payment of the required application, and examination fees; and

(3) Meet all education, examination and training requirements in effect at the time of application through one of the following pathways;

(a) Certification Pathway 1 — Graduation from an educational institution:

(A) Submit official transcript from an educational institution showing proof of hours for a field of practice as required by the Department of Education pursuant to ORS 345.400 and OAR 581-045-0200; or

(B) Submit a passing score of a board-approved practical examination within two years before the date of application in each field of practice; and

(C) Completion and passage of a board-approved written examination within two years before the date of application including the Oregon laws and rules examination. An applicant with a current certification who is seeking to add a field of practice must pass the Oregon laws and rules examination if the applicant has not passed this examination within two years of applying to add a field of practice.

(D) An applicant is not required to provide proof of official transcripts in a field of practice the applicant was previously certified in Oregon.

(b) Certification Pathway 2 – Reciprocity:

(A) Submit an affidavit of licensure pursuant to OAR 331-030-0040 from another state, which is active with no current or pending disciplinary action and is substantially equivalent to Oregon certification requirements pursuant to ORS 690.047; and

(B) Completion and passage of a board approved written examination within two years before the date of application including the Oregon laws and rules examination. An applicant with a current certification who is seeking to add a field of practice must pass the Oregon laws and rules examination if the applicant has not passed this examination within two years of applying to add a field of practice.

(c) Upon passage of all required examinations and before receipt of certificate, the applicant must pay all certification fees.

(4) An applicant coming from a competency based educational institution under ORS 345.400 may be required to submit additional information to the agency.

Stat. Auth.: ORS 690.035, 690.046 & 690.165

Stats. Implemented: ORS 690.035, 690.046 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 1-1981, f. & ef. 10-1-81; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 3-2008(Temp), f. 11-28-08, cert. ef. 12-1-08 thru 4-30-09; Administrative correction 5-20-09; BOC 1-2009, f. & cert. ef. 6-1-09; BOC 1-2011(Temp), f. & cert. ef. 3-1-11 thru 8-10-11; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-030-0030

### General Information about the Examination

(1) Practical Examination: The board recognizes and sanctions the practical examination conducted by an educational institution in accordance with the Department of Education's regulations, provisions, criteria and protocols.

(2) Written Examination: The board-approved written examination consists of one or more fields of practice and the Oregon laws and rules examination.

(3) The written examination is administered in English only, unless an agency-approved testing contractor or vendor provides the written examination in languages other than English.

(4) Written examination candidates may be electronically monitored during the course of testing.

(5) Each section of the written examination will be scored individually. The passing score for each section is 75 percent or better.

(6) The Board will establish by policy a maximum time allowance for each section of the written examination.

(7) Taking notes, textbooks or notebooks into the written examination area is prohibited.

(8) Electronic equipment and communication devices, such as personal computers, pagers and cellular telephones or any other devices deemed inappropriate by the agency, are prohibited in the written examination area.

(9) A candidate may be immediately disqualified during or after the examination for conduct that interferes with the written examination. The examination may be invalidated and written examination fees may be forfeited. Such conduct includes but is not limited to:

(a) Directly or indirectly giving, receiving, soliciting, and attempting to give, receive or solicit aid during the written examination process;

(b) Taking items including but not limited to items listed in subsection (7) and (8) of this rule into the written examination area;

(c) Removing or attempting to remove any examination-related information, notes or materials from the written examination site;

(d) Failing to follow directions relative to the conduct of the written examination; and

(e) Exhibiting behavior that impedes the normal progress of the written examination.

(10) The applicant may be required to reapply, submit additional examination fees, and request in writing to schedule another examination if applicant is disqualified from taking the examination for reasons under subsection (7)(8) and (9) of this rule.

Stat. Auth.: ORS 676.615, 690.065 & 690.165

Stats. Implemented: ORS 676.615, 690.065 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; Renumbered from 817-030-0025; BH 33-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-030-0065

### Written Examination Retake Requirements

(1) Failed sections of a written examination may be retaken as follows:

(a) After first failed attempt — applicant may not retake for seven calendar days;

(b) After second failed attempt — applicant may not retake for seven calendar days;

(c) After third failed attempt — applicant may not retake for 30 calendar days, must submit an official transcript certifying additional training from an educational institution on a form prescribed by the agency, and must pay application fee;

(d) After fourth failed attempt — applicant may not retake for seven calendar days;

(e) After fifth failed attempt — applicant may not retake for seven calendar days;

(f) After sixth failed attempt — applicant may not retake for 30 calendar days, must submit an official transcript certifying additional training from an educational institution on a form prescribed by the agency, and must pay application fee;

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(g) After seventh failed attempt — ability to retake, requirements for retake, or both will be determined by the Board on a case-by-case basis.

(2) Applicants retaking the examination must meet the requirements under OAR 331-030-0000.

Stat. Auth.: ORS 690.065 & 690.165  
Stats. Implemented: ORS 690.065 & 690.165  
Hist.: BH 2-1978, f. & ef. 11-29-78; BH 1-1983(Temp), f. & ef. 10-4-83; BH 1-1984, f. & ef. 2-13-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1 1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 3-2008(Temp), f. 11-28-08, cert. ef. 12-1-08 thru 4-30-09; Administrative correction 5-20-09; BOC 1-2009, f. & cert. ef. 6-1-09; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-030-0071

### Practical Examination Evaluation

The purposes of the practical examination evaluation are to allow the Board to decide which practical examinations it will approve as certifying examinations and how the Board will be able to determine whether or not an individual practical examination is one the board approves.

(1) In accordance with ORS 690.046 all educational institutions must submit to an evaluation of the practical examination once every two years in at least one field of practice under ORS 690.005 to have the practical examination approved.

(2) A practical examination being evaluated for approval must be performed in a continuous eight-hour period.

(3) If the practical examination does not meet evaluation standards set forth by the Department of Education, the examination must be corrected or will not be approved.

(4) To correct a practical examination that is not approved, the educational institution must schedule a new practical examination evaluation and meet the Department of Education evaluation standards within 30 days from the date of the practical examination evaluation.

(5) If the educational institution fails the practical examination evaluation, the educational institution must correct the deficiencies before the practical examination is approved.

(6) When a practical examination is not approved and not corrected, a subsequent practical examination evaluation may be granted if written approval is received by the agency from Department of Education that the educational institution is in compliance with regulations, provisions, criteria and protocols set forth by Department of Education.

(7) A student whose educational institution's practical examination has not been approved may take the practical examination at another educational institution.

NOTE: A student is responsible for any charges or fees for a practical examination administered by another educational institution.  
Stat. Auth.: ORS 690.065 & 690.165  
Stats. Implemented: ORS 690.065 & 690.165  
Hist.: BOC 2-2011, f. & cert. ef. 5-5-11

## 817-035-0010

### Issuance and Renewal of Certificates, Licenses, Registrations, or Freelance Authorizations

(1) An individual holding an authorization as defined in OAR 331-010-0000 is subject to the provisions of OAR chapter 331, division 30 regarding the issuance and renewal of an authorization and provisions regarding authorization to practice, identification, and requirements for issuance of a duplicate authorization.

(2) An individual holding an authorization as defined in OAR 331-010-0000 is subject to the provisions of ORS 690.046, 690.055, 690.057, 690.085, 690.123 and for issuance and renewal of an authorization.

(3) AUTHORIZATION RENEWAL: Authorization renewal, other than independent contractor registration or freelance authorization, must be made prior to the authorization entering inactive status. The authorization holder must submit the following:

- (a) Renewal application form;
- (b) Payment of required renewal fee pursuant to OAR 817-040-0003;
- (4) INACTIVE AUTHORIZATION RENEWAL: An authorization, other than independent contractor registration or freelance authorization, may be inactive for up to three years. The authorization holder must submit the following:

(a) Renewal application form; and

(b) Payment of delinquency and authorization fees pursuant to OAR 817-040-0003.

(5) EXPIRED AUTHORIZATION: An authorization, other than independent contractor registration or freelance authorization, that has been inactive for more than three years, is expired and the authorization holder must meet the requirements listed in OAR 817-030-0005 or 817-020-0006.

(6) Independent contractor registrations and freelance authorizations that are not renewed become dormant, but do not become inactive and do not expire;

(7) To reactivate a dormant independent contractor registration or freelance authorization, the holder must contact the agency and pay required renewal fee.

(8) For freelance authorization renewal or reactivation, the freelance authorization holder must also submit proof of having passed the board approved Oregon laws and rules examination or completion of the agency's Safety and Infection Control Training:

- (a) Every two years for renewal; or
- (b) Within two years from the date of reactivation.

(9) Independent contractor registration and freelance authorizations that are in dormant status are not valid for practice.

(10) In addition to other requirements of this rule, if a facility license changes name or assumed business name the facility must provide at the time of renewal:

(a) A current registration as required by Secretary of State, Corporations Division pursuant to under ORS 648.007; and

(b) A current copy of the Assumed Business Name (ABN) filing if applicant is operating under an ABN prior to renewing a facility license.

NOTE: ABN is not required if business includes the real and true name of each owner. Refer to Secretary of State, Corporations Division under ORS 648.005 through 648.990.

(11) If a facility was granted a license as a corporation or LLC, and that corporation or LLC changes registered agent, the facility owner must, within 10 days, provide the agency with an updated and current registration as required by Secretary of State, Corporations Division under ORS 648.005 through 648.990.

(12) If a facility was granted a license as a corporation or LLC, and that corporation or LLC has been dissolved or administratively dissolved, the owner must apply for a new facility license.

(13) If a facility changes ownership, the new owner must apply for a new facility license.

(14) In addition to other requirements of this rule, if the holder of an independent contractor registration or freelance authorization changes name or ABN, the holder must provide at the time of renewal:

(a) A current registration as required by Secretary of State, Corporations Division pursuant to ORS 648.007 if the independent contractor or the freelance authorization holder is licensed as a business and not as an individual before renewal or reactivation; and

(b) A current copy of the Assumed Business Name (ABN) filing if the independent contractor or the freelance authorization holder is operating under an assumed business name prior to renewal or reactivation.

NOTE: ABN is not required if business includes the real and true name of each owner. Refer to Secretary of State, Corporations Division under ORS 648.005 through 648.990.

Stat. Auth.: ORS 676.605, 676.615, 690.085 & 690.165  
Stats. Implemented: ORS 676.605, 676.615, 690.085 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 2-1994(Temp), f. 2-15-94, cert. ef. 3-1-94 thru 8-28-94; Renumbered from 817-040-0008, BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-040-0015, BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2005, f. 6-17-05, cert. ef. 7-1-05; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2008, f. 9-15-08 cert. ef. 10-1-08; BOC 1-2009, f. & cert. ef. 6-1-09; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-035-0050

### Application and Criteria for Freelance Authorization

(1) Pursuant to ORS 690.123, a practitioner who provides services outside of a licensed facility must hold a freelance authorization.

(2) The applicant for a freelance authorization must:

- (a) Submit a completed application prescribed by the agency;
- (b) Pay required fees pursuant to OAR 817-040-0003; and

(c) Pass the Oregon Laws and Rules examination. Completion of the examination is not required if the applicant passed the Oregon Laws & Rules examination within two years before the date of application for a freelance authorization; and

(d) Submits proof of:

(A) A current registration as required by Secretary of State, Corporations Division pursuant to ORS 648.007 if applicant is applying as a business and not as an individual; and

(B) A current copy of the Assumed Business Name (ABN) filing if applicant is operating under an assumed business name prior to applying for a freelance authorization,

NOTE: ABN is not required if business includes the real and true name of each owner. Refer to Secretary of State, Corporations Division under ORS 648.005 through 648.990.

(3) Subject to ORS 676.612 and OAR 331-030-0000, upon qualification, the agency will issue a freelance authorization indicating the fields of



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practice the practitioner is certified to perform outside of a licensed facility.

(4) The freelance authorization is issued as a separate document from the certificate authorizing the holder to perform services.

(5) A holder of freelance authorization must:

(a) Provide each client with the agency's name, address and telephone number, for comment on any of the services received or on any of the sanitary procedures followed while performing services;

(b) Display the practitioner's certificate number and freelance authorization number on all advertising when soliciting business;

(c) Comply with the Board's health, safety, and infection control rules and regulations; and

(d) Be subject to random audit to verify compliance with safety, infection control and licensing requirements.

(6) The freelance authorization may be suspended or revoked by the agency if the Board has taken action to refuse to issue or renew, or has suspended or revoked the practitioner's certificate.

Stat. Auth.: ORS 676.615, 690.048, 690.123 & 690.165

Stats. Implemented: ORS 676.615, 690.048, 690.123 & 690.165

Hist.: BH 4-1984, f. & cert. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, f. & cert. ef. 7-1-94; Renumbered from 817-020-0040; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 2-2008, f. 9-15-08 cert. ef. 10-1-08; BOC 1-2009, f. & cert. ef. 6-1-09; BOC 3-2010(Temp), f. 11-10-10, cert. ef. 11-15-10 thru 5-10-11; BOC 1-2011(Temp), f. & cert. ef. 3-1-11 thru 8-10-11; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-035-0070

### Independent Contractor Registration Eligibility

An independent contractor registration may be issued if the applicant:

(1) Holds a current, valid practitioner's certificate;

(2) Is at least 18 years of age as required in ORS 690.057;

(3) Meets the criteria for independent contractor status in accordance with ORS 690.035, 690.057, 670.600, and 657.040;

(4) Applies on forms provided by the agency and pays the required application and registration fees;

(5) Submits proof of:

(a) A current registration as required by Secretary of State, Corporations Division pursuant to ORS 648.007 if applicant is applying as a business and not as an individual; and

(b) A current copy of the Assumed Business Name (ABN) filing if applicant is operating under an assumed business name prior to applying for an independent contractor registration.

**NOTE:** ABN is not required if business includes the real and true name of each owner. Refer to Secretary of State, Corporations Division under ORS 648.005 through 648.990.

(6) Complies with all applicable rules and regulations of the Board and other state agencies; and

(7) Attests that application information is correct.

Stat. Auth.: ORS 676.615, 690.055, 690.057 & 690.165

Stats. Implemented: ORS 676.615, 690.055, 690.057 & 690.165

Hist.: BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2009, f. & cert. ef. 6-1-09; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-035-0110

### Posting Requirements

Freelance authorization, certificate, license, permit and registration holders are subject to the requirements of OAR 331-030-0020.

(1) Facility licenses must be posted in public view.

(2) Independent contractor registrations must be posted in public view. A registrant may temporarily conceal the address printed on the registration document with a covering that is removable.

(3) Practitioner certificates must be posted in public view. A certificate holder may temporarily conceal the address printed on the certificate document with a covering that is removable.

(4) Demonstration and temporary authorizations must be posted in public view.

(5) Freelance authorization holders must show the authorization to practice upon request of the client. A freelance authorization holder may temporarily conceal the address printed on the freelance authorization document with a covering that is removable.

(6) Holders of a facility license or an independent contractor registration must maintain the most recent inspection certificate on the facility premises or at the designated work station and allow access to the record upon request by the agency's inspector or representative.

(7) Facilities and independent contractors must post the most recent inspection certificate in public view in the facility or at the independent contractor's work station.

Stat. Auth.: ORS 676.615, 690.095 & 690.165

Stats. Implemented: ORS 676.615, 690.095 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; Renumbered from 817-010-0120; BH 1-1988, f. & cert. ef. 7-1-88; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; Renumbered from 817-020-0013; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 1-2009, f. & cert. ef. 6-1-09; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-040-0003

### Fees

(1) Applicants and authorization holders are subject to provisions of OAR 331-010-0010 and 331-010-0020 regarding payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency, in consultation with the Board, are as follows:

(a) Application:

(A) Practitioner certificate: \$25 per field of practice.

(B) Practitioner certificate by reciprocity: \$100 per field of practice.

(C) Independent contractor registration: \$50.

(D) Freelance authorization: \$25.

(E) Facility license: \$100.

(F) Temporary facility permit: \$50.

(G) Demonstration permit: \$25.

(b) Examination:

(A) Oregon laws & rules: \$50.

(B) Barbering: \$50.

(C) Hair design: \$50.

(D) Esthetics: \$50.

(E) Nail technology: \$50.

(F) Freelance authorization: \$25

(c) Original issuance of authorization to practice:

(A) Practitioner certificate: \$40 for two years.

(B) Practitioner certificate by reciprocity: \$45 for two years.

(C) Independent contractor registration: \$100 for one year.

(D) Freelance authorization: \$100 for one year.

(E) Facility license: \$110 for one year.

(d) Permits:

(A) Temporary facility: \$100.

(B) Demonstration: \$50.

(e) Renewal of authorization to practice:

(A) Practitioner certificate: \$45 for two years.

(B) Practitioner certificate: on-line payment: \$40 for two years.

(C) Independent contractor registration: \$100 for one year.

(D) Freelance authorization: \$100 for one year.

(E) Facility license: \$110 for one year.

(f) Other administrative fees:

(A) Delinquency fee: \$30 for each year in inactive status up to three years.

(B) Replacement of freelance authorization, certificate, license or registration, including name change: \$25.

(C) Duplicate freelance authorization, certificate, license or registration document: \$25 per copy with maximum of three.

(D) Affidavit of licensure: \$50.

(E) An additional \$25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

(F) Information packets: \$10.

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

Stats. Implemented: ORS 676.605, 676.615, 690.235 & 30.701

Hist.: BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 1-1990(Temp), f. 4-20-90 & cert. ef. 6-1-90; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2005, f. 6-17-05, cert. ef. 7-1-05; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2008, f. 9-15-08 cert. ef. 10-1-08; BOC 2-2009(Temp), f. 6-30-09, cert. ef. 7-1-09 thru 12-25-09; BOC 3-2009(Temp), f. 12-21-09, cert. ef. 12-26-09 thru 5-31-10; BOC 1-2010, f. 3-31-10, cert. ef. 4-1-10; BOC 2-2010, f. & cert. ef. 10-1-10; BOC 1-2011(Temp), f. & cert. ef. 3-1-11 thru 8-10-11; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-060-0050

### Use of Formaldehyde Products

(1) In addition to and not in lieu of, any other city, county, state or federal laws, rules, codes and regulations, the agency and board adopt by reference OAR 437-002-0360(31).

(2) For the purpose of this rule:

(a) When employer is referenced under OAR 437-002-0360(31) employer means a facility license holder, temporary facility permit holder, demonstration permit holder working outside of a licensed facility, a prac-

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itioner working outside of a licensed facility, and an independent contractor.

(b) When employee is referenced under OAR 437-002-0360(31) employee means practitioner working in a licensed facility, individual working under the direction of an independent contractor or facility license holder, and demonstration permit holder working in a licensed facility.

Stat. Auth.: ORS 676.605, 676.606, 676.607, 690.165 & 690.205  
Stats. Implemented: ORS 690.165 & 690.205  
Hist.: BOC 3-2010(Temp), f. 11-10-10, cert. ef. 11-15-10 thru 5-10-11; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-090-0025 Schedule of Penalties for Facility and Independent Contractor Registration Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of facility license and independent contractor registration laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Operating or purporting to operate a facility without a valid facility license is a violation of ORS 690.015(2)(b) and (2)(c):

- (a) 1st offense: \$500;
- (b) 2nd offense: \$1000;
- (c) 3rd offense: \$2500

(2) Operating or purporting to operate as an independent contractor without or with a dormant independent contractor registration is a violation of ORS 690.015 (2)(d) and (2)(e):

- (a) 1st offense: \$200
- (b) 2nd offense: \$500
- (c) 3rd offense: \$1,000

(3) Operating a facility with an inactive or expired license is a violation of ORS 676.612 (2)(r):

- (a) 1st offense: \$200;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000

(4) Allowing an uncertified person to practice in a field of practice is a violation of ORS 690.015(2)(g):

- (a) 1st offense: \$500;
- (b) 2nd offense: \$1,000;
- (c) 3rd offense: \$2,500

(5) Failing to allow the Agency to inspect the premises when the facility is open or obstructing or hindering the normal progress of the inspection, threatening or exerting physical harm, or enabling another individual to impede the inspection progress is a violation of OAR 817-0200006(9) and will result in monetary penalties and any other actions allowed by law.

(6) Allowing an employee to practice with an inactive or expired practitioner certificate is a violation of ORS 676.612(2)(h):

- (a) 1st offense: \$200
- (b) 2nd offense: \$500
- (c) 3rd offense: \$1000

(7) Failing to meet the specifications and standards required under OAR 817-010-0007 in a facility is a violation of OAR 817-020-0006 (1)(e) and may result in an emergency suspension of the facility license until the violation is corrected.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165 & 690.167  
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167  
Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0020; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-090-0035 Schedule of Penalties for Practitioner Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of practitioner licensing laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Operating with an inactive or expired practitioner certificate is a violation of ORS 676.612(2)(r):

- (a) 1st offense: \$200;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000

(2) Practicing or purporting to practice in a field of practice without a certificate, is a violation of ORS 690.015(2)(a)

- (a) 1st offense: \$1,000;

(b) 2nd offense: \$2,500;

(c) 3rd offense \$5,000

(3) Performing services in a field of practice in an unlicensed facility is a violation of ORS 690.015(2)(c):

- (a) 1st offense: \$200;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000

(4) Practicing or purporting to practice in a field of practice with a suspended certificate is a violation of 676.612 (4)

(a) 1st offense: \$2,500;

(b) 2nd offense: \$5,000;

(c) 3rd offense: Monetary penalty and any other actions allowed by law including refusal to issue an authorization to practice

(5) Performing in a field of practice by a student when not on the premises of an educational institution in which he or she is enrolled is a violation of OAR 817-100-0005:

- (a) 1st offense: \$500;
- (b) 2nd offense: \$1,000;
- (c) 3rd offense: \$2,500.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165 & 690.167  
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167  
Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0020; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-090-0045 Schedule of Penalties for Certificate/License/Registration/ Permit Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of certificate/license/registration/permit laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Altering with fraudulent intent or fraudulent use of a license, certificate, registration, permit or authorization issued by the agency is a violation of ORS 690.015(2)(j) or ORS 690.015(2)(k):

- (a) 1st offense: \$1,500;
- (b) 2nd offense: \$3,500;
- (c) 3rd offense: \$5,000.

(2) Failing to post a valid license, registration, certificate, permit or authorization issued by the agency in public view is a violation of ORS 690.095 and OAR 817-035-0110:

- (a) 1st offense: \$100
- (b) 2nd offense: \$200
- (c) 3rd offense: \$500

(3) Failing to post the most recent inspection certificate in public view within the facility is a violation of OAR 817-035-0110:

- (a) 1st offense: \$100;
- (b) 2nd offense: \$200;
- (c) 3rd offense: \$500.

(4) Failing to return or surrender a certificate, license, registration, permit or authorization upon demand by the Agency is a violation of OAR 331-030-0020:

- (a) 1st offense: \$1,000;
- (b) 2nd offense: \$2,500;
- (c) 3rd offense: \$5,000.

(5) Failing to provide appropriate photographic identification upon request by the Agency is a violation of OAR 331-030-0020(4):

- (a) 1st offense: \$500;
- (b) 2nd offense: \$1,000;
- (c) 3rd offense: \$2500.

(6) Failing to inform the Agency within 30 calendar days of a change work location, home or mailing address, or other notification requirement listed in OAR 331-010-0040 is a violation of OAR 331-010-0040

- (a) 1st offense: \$100;
- (b) 2nd offense: \$200;
- (c) 3rd offense: \$500.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165 & 690.167  
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167  
Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0020; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

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## 817-090-0050

### Schedule of Penalties for Certificate of Identification Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of Freelance Authorization laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

- (1) Working with a dormant Freelance Authorization:
  - (a) 1st offense: \$200;
  - (b) 2nd offense: \$500;
  - (c) 3rd offense: \$1000

(2) Failing to display the practitioner certificate number and Freelance Authorization number when advertising or soliciting business; or, failing to provide required card under a Freelance Authorization is a violation of OAR 817-035-0050(5)(a) or (b)

- (a) 1st offense: \$100;
- (b) 2nd offense: \$200;
- (c) 3rd offense: \$500.

(3) Practicing outside a licensed facility without a valid Freelance Authorization is a violation of ORS 690.123:

- (a) 1st offense: \$500;
- (b) 2nd offense: \$1,000;
- (c) 3rd offense: \$2,500

Stat. Auth: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96, Renumbered from 817-090-0020; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-090-0055

### Schedule of Penalties for Home Facility Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of home facility laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Failing to identify a facility located in a residence by means of a house number or a sign easily visible from the street is a violation of OAR 817-020-0006(9):

- (a) 1st offense: \$100;
- (b) 2nd offense: \$200;
- (c) 3rd offense: \$500.

(2) Failing to provide an entrance to the facility that is separate from the entrance to residential living areas or maintain separation between the facility and the residential living areas is a violation of OAR 817-020-0006(9)(b) or (c):

- (a) 1st offense: \$100;
- (b) 2nd offense: \$200;
- (c) 3rd offense: \$500.

Stat. Auth: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96, Renumbered from 817-090-0020; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-090-0065

### Schedule of Penalties for Water Supply and Disposal Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of safety and infection control laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Failing to have immediate access to hot and cold running water in the working area of a facility, or in the location where a Freelance Authorization holder is providing services, is a violation of OAR 817-010-0014(4) and 817-035-0050 (5)(c):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000.

(2) Failing to have a facility water supply which meets state pressure and purity requirements is a violation of OAR 817-010-0014(1) and (2) may result in an emergency suspension of the facility license until the violation is corrected.

(3) Improperly disposing of liquid waste from a facility is a violation of OAR 817-010-0021(3) and may result in an emergency suspension of the facility license until the violation is corrected.

Stat. Auth: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167, 690.205

Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96, Renumbered from 817-090-0030; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-090-0070

### Schedule of Penalties for Towels and Linens Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of safety and infection control laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Failing to use clean towels or linens for each client is a violation of OAR 817-010-0035(1) and failing to launder towels and linens as required is a violation of OAR 817-010-0035(5):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000.

(2) Failing to store clean towels and linens in a clean area is a violation of OAR 817-010-0035(3):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000.

(3) Failing to immediately deposit all used towels with chemical residue in a closed, fire retardant container is a violation of OAR 817-010-0035(4):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000.

(4) Failing to deposit soiled towels in a covered container is a violation of OAR 817-010-0035(4):

- (a) 1st offense: \$100;
- (b) 2nd offense: \$200;
- (c) 3rd offense: \$500.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-090-0075

### Schedule of Penalties for Waste Disposal Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of safety and infection control laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Failing to immediately deposit all chemical waste materials in a closed container at the conclusion of each service, or a fire-retardant container at the close of each business day is a violation of OAR 817-010-0060(1):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(2) Failing to immediately deposit all waste and refuse in covered containers is a violation of OAR 817-010-0060(2):

- (a) 1st offense: \$100;
- (b) 2nd offense: \$200;
- (c) 3rd offense: \$500.

(3) Failing to store cigarette ashes, butts, etc. in a fire-retardant container is a violation of OAR 817-010-0060(4):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(4) Failing to keep the outer surface of a waste disposal container clean is a violation of OAR 817-010-0060(5):

- (a) 1st offense: \$100;
- (b) 2nd offense: \$200;
- (c) 3rd offense: \$500.

(5) Failing to dispose of disposable material coming into contact with blood or other bodily fluids in a sealable plastic bag is a violation of OAR 817-010-0060(6):

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- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000.

(6) Failing to dispose of disposable sharp-edged material coming into contact with blood or other bodily fluids in a sealable rigid container is a violation of OAR 817-010-0060(7):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000.

(7) Failing to have sealable plastic bags and sealable rigid containers available for use at all times services are being performed is a violation of OAR 817-010-0060(8):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205  
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167, 690.205  
Hist.: BH 1-1985, f. & cf. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-090-0080

### Schedule of Fines for Dispensing of Cosmetic Preparations Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of safety and infection control laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Failing to properly dispense powders, liquids, wave solutions, creams, semi-solid substances or other materials which come in contact with a client is a violation of OAR 817-010-0055:

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000.

Stat. Auth.: ORS 690.165, 690.205 & 690.995  
Stats. Implemented: ORS 690.165, 690.205 & 690.995  
Hist.: BH 1-1985, f. & cf. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 1-2007, f. 10-31-07, cert. ef. 11-1-07; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-090-0085

### Schedule of Penalties for Sanitation or Disinfectant Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of safety and infection control laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Failing to use a high-level disinfectant or failing to totally immerse in high-level disinfectant, all tools and implements with sharp edges or points, or foot spa equipment according to disinfectant manufacturer's instructions is a violation of either OAR 817-010-0068(3) or OAR 817-010-0101(5):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000.

(2) Failing to keep disinfecting solutions at adequate strength, free of foreign material, and/or available for immediate use at all times the facility is open for business is a violation of OAR 817-010-0065(6):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000.

(3) Failing as a facility license holder, an independent contractor or Freelance authorization holder to provide and maintain adequate disinfecting solutions or sterilizing equipment to the number of practitioners, usage requirements or volume of business is a violation of OAR 817-010-0065(3):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(4) Failing to use a low-level disinfectant or failing to totally immerse all tools and implements, without sharp edges or points according to disinfectant manufacturers instructions is a violation of OAR 817-010-0068(2):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205  
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205  
Hist.: BH 1-1985, f. & cf. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-090-0090

### Schedule of Penalties for Disinfecting Requirements of Tools and Implements Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of safety and infection control laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Failing to cleanse and disinfect, with a high-level disinfectant, electrical or mechanical hair clipper blades after use on each client is a violation of OAR 817-010-0069(2):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1,000.

(2) Failing to store new, disinfected or cleaned tools and implements separately from all others is a violation of OAR 817-010-0075(1):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(3) Failing to ensure that any tool or implement; or article which comes in contact with a client's are disinfected, cleaned or disposed of is a violation of OAR 817-010-0065(1); or OAR 817-010-0040(2) or OAR 817-010-0040(3):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(4) Failing to discard or give to the client any a disposable nail file, cosmetic sponge, buffer block, sanding band or sleeve, orangewood stick, or nail bits designed for single use after use on a client, is a violation of OAR 817-010-0065(7):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167, 690.205  
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205  
Hist.: BH 1-1985, f. & cf. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 4-2001(Temp), f. & cert. ef. 11-1-01 thru 4-29-02; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-090-0095

### Schedule of Penalties for Cleanable/Non-Absorbent Surfaces Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of safety and infection control laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Failing to have cleanable, non-absorbent surfaces on all equipment in all areas of a facility where services are performed is a violation of OAR 817-010-0101(1):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(2) Failing to keep equipment in a facility, including upholstery fabrics, clean and in good repair is a violation of OAR 817-010-0101(3):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(3) Failing to have cleanable, non-absorbent floor surfaces in good repair in the area(s) of a facility where services are performed is a violation of OAR 817-010-0106(1):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167, 690.205  
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205  
Hist.: BH 1-1985, f. & cf. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f.

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6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-090-0100

### Schedule of Penalties for Clean Conditions Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of safety and infection control laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Failing to keep a restroom located on the premises of a facility clean and sanitary is a violation of OAR 817-010-0021(2):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(2) Failing to keep a facility shampoo bowl or sink clean is a violation of OAR 817-010-0101(2):

- (a) 1st offense: \$00;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(3) Failing to keep roller-storage receptacles and their contents clean and free of foreign material is a violation of OAR 817-010-0075(2):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(4) Failing to keep storage drawers for clean tools and implements clean and to use such drawers only for clean tools and implements is a violation of OAR 817-010-0075(3):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(5) Failing to keep storage cabinets, work stations, vanities and back-bars or other such equipment clean is a violation of OAR 817-010-0075(4):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(6) Allowing hair clippings to accumulate on a facility floor or failing to dispose of hair clippings in a covered container is a violation of OAR 817-010-0106(3):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(7) Failing to keep facility walls and ceiling clean and free of excessive spots, mildew, condensation or peeling paint is a violation of OAR 817-010-0110:

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(8) Failing to properly clean and disinfect foot spa equipment as required is a violation of OAR 817-010-0101(5):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205  
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205  
Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-090-0105

### Schedule of Penalties for Client Health and Safety Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of safety and infection control laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Failing to use a neck strip or a towel to prevent contact between the skin of a client's neck and a hair cloth or cape is a violation of OAR 817-010-0040(1):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(2) Failing to use a disposable cover on the head of a client who is trying on a hairpiece or to clean and label used hair goods as "used" prior to resale is a violation of OAR 817-010-0085:

- (a) 1st offense: \$300;

(b) 2nd offense: \$500;

(c) 3rd offense: \$1000.

(3) Failing to wear single-use disposable protective gloves while having open sores or skin lesions during any performance of service on a client is a violation of OAR 817-015-0030(2):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(4) Performing services while diagnosed with a communicable disease or condition in a transmittable form is a violation of OAR 817-120-0005(4) and (5) and shall incur the following penalty for any violation: Emergency suspension until the disease or condition is no longer communicable.

(5) Treating any disease or knowingly serving any client having a communicable disease or condition except head lice is a violation of OAR 817-120-0005(4) and (5):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(6) Performing services without washing one's hands immediately before and after serving each client is a violation of OAR 817-015-0030(1):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(7) Failing to maintain client records for each client receiving esthetics or nail technology services, maintain client records on the premises of the facility or allow an enforcement officer access to review client records upon request is a violation of OAR 817-015-0065 or OAR 817-015-0070:

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(8) Failing to maintain required documentation of an FDA Class I or Class II manual or mechanical device or equipment, or to provide required documentation upon request is a violation of OAR 817-010-0065(10) or (14):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167, 690.205  
Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205  
Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 4-2001(Temp), f. & cert. ef. 11-1-01 thru 4-29-02; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-090-0110

### Schedule of Penalties for Safe Working Conditions Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of safety and infection control laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Failing to meet the requirements of the Oregon Indoor Clean Air Act is a violation of OAR 817-010-0009 may result in an emergency suspension of the facility license until the violation is corrected.

(2) Having frayed electrical wiring or overloading the electrical circuits in a facility is a violation of ORS 690.055(1)(C), 690.055(4)(F) and OAR 817-010-0007(1) and may result in an emergency suspension of the facility license until the violation is corrected.

(3) Having pets in facilities, other than fish in an aquarium, is a violation of OAR 817-010-0095.

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(4) Failing to wear single-use disposable protective gloves while performing a service on a client whose skin shows signs of excretion of any body fluids is a violation of OAR 817-015-0030(3):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;
- (c) 3rd offense: \$1000.

(5) Failing to wear eye goggles, shields or mask in performing services on a client where the likelihood of splattering is present is a violation of OAR 817-015-0030(4):

- (a) 1st offense: \$300;
- (b) 2nd offense: \$500;

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(c) 3rd offense: \$1000.

(6) Failing to have a restroom available which is “reasonably accessible” for facility employees is a violation of OAR 817-010-0021(1):

(a) 1st offense: \$300;

(b) 2nd offense: \$500;

(c) 3rd offense: \$1000.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

## 817-090-0115

### Schedule of Penalties for Chemical Use and Storage Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of chemical use and storage laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Failing to store chemicals safely to avoid fire, explosion and/or bodily harm to clients and practitioners is a violation of OAR 817-060-0020(3):

(a) 1st offense: \$300;

(b) 2nd offense: \$500;

(c) 3rd offense: \$1000.

(2) Failing to mix chemicals in a dispensing area is a violation of OAR 817-060-0030(1):

(a) 1st offense: \$300;

(b) 2nd offense: \$500;

(c) 3rd offense: \$1000.

(3) Mixing or using chemicals near an open flame or other potential source of ignition is a violation of OAR 817-060-0030(1):

(a) 1st offense: \$300;

(b) 2nd offense: \$500;

(c) 3rd offense: \$1000.

(4) Smoking, or allowing a client to smoke, or having an open flame at the workstation, during any phase of chemical service, i.e. mixing, application, processing, or use of any potentially explosive or flammable chemical, in relation to performing services is a violation of OAR 817-060-0030(7):

(a) 1st offense: \$300;

(b) 2nd offense: \$500;

(c) 3rd offense: \$1000.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167, 690.205

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0040; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

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## Oregon Liquor Control Commission Chapter 845

**Rule Caption:** Allow alcohol sales within Category I – Commercial Service airports to ticketed passengers beginning at 5:00 a.m.

**Adm. Order No.:** OLCC 3-2011

**Filed with Sec. of State:** 4-25-2011

**Certified to be Effective:** 5-1-11

**Notice Publication Date:** 12-1-2010

**Rules Amended:** 845-006-0425

**Subject:** This rule sets the hours during which licensees of the Commission may sell, dispense, serve, allow consumption of, or allow removal of alcohol. The Commission accepted a petition from David Shurtleff (Coyote Pub Ranch) at the Redmond Municipal Airport (RDM) requesting to amend this rule by adding language which would allow both On-Premises and Off-Premises sales licensees located at RDM to sell and serve alcohol between the hours of 5:00 a.m. and 2:30 a.m. This is an additional two hours in the morning outside of the currently allowed hours of 7:00 a.m. to 2:30 a.m., but only to ticketed airline passengers with a valid same-day boarding pass. The rule amendments differ from the petitioners’ request in that they would expand the hours of sale for not only RDM, but also for all public use airports designated as Category I – Commercial Service

by the Oregon Department of Aviation (currently eight airports, including RDM & PDX).

**Rules Coordinator:** Jennifer Huntsman—(503) 872-5004

## 845-006-0425

### Hours of Sale

(1) Except as provided by sections (2) and (3) of this rule, and OAR 845-015-0140, alcoholic liquor may be sold, dispensed, served, consumed on, or removed from licensed premises only between the hours of 7 a.m. and 2:30 a.m.

(2) Except as provided by section (3) of this rule, alcoholic liquor may be sold, dispensed, served, consumed on, or removed from a licensed premises located within any Oregon public use airport designated as a Category I – Commercial Service Airport by the Oregon Department of Aviation only between the hours of 5:00 a.m. and 2:30 a.m. However, from 5:00 a.m. to 7:00 a.m. alcoholic liquor may be sold, dispensed, or served only to a ticketed airline passenger with a valid same-day boarding pass.

(3) Licensees whose license privileges permit the sale and distribution of malt beverages, cider, and wines for resale may make deliveries of that alcohol to licensees at any time.

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

Stats. Implemented: ORS 471.030

Hist.: LCC 26, f. 5-12-60; LCC 27, f. 9-15-60; LCC 28, f. 12-19-60; LCC 29, f. 5-21-64; LCC 30, f. 1-20-66; LCC 50, f. 12-18-74, ef. 1-15-75; LCC 3-1979, f. 1-26-79, ef. 2-1-79; LCC 5-1979, f. 4-2-79, ef. 4-5-79; Renumbered from 845-010-0005; LCC 7-1981, f. 11-2-81, ef. 1-1-82; LCC 4-1986, f. 3-3-86, ef. 4-1-86; OLCC 14-1987, f. 4-6-87, ef. 5-1-87; OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01, Renumbered from 845-006-0030; OLCC 7-2009, f. 6-22-09, cert. ef. 7-1-09; OLCC 3-2011, f. 4-25-11, cert. ef. 5-1-11

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**Rule Caption:** Amend two financial assistance rules updating maximum display bin/rack and exterior sign allowances.

**Adm. Order No.:** OLCC 4-2011

**Filed with Sec. of State:** 4-25-2011

**Certified to be Effective:** 5-1-11

**Notice Publication Date:** 2-1-2011

**Rules Amended:** 845-013-0030, 845-013-0050

**Subject:** The Oregon Beer & Wine Distributors Association (OBWDA) submitted a petition requesting to amend two Financial Assistance rules in Division 13; this division of rules implements our statutes governing “Tied-House” prohibitions. The petitioner proposed to amend OAR 845-013-0030 (Fixtures, Furniture, Furnishings) which describes the very limited items (display bins or racks) that a supplier (manufacturer or wholesaler) is allowed to provide to a retailer. The amendments change the maximum value allowed for such branded bins & racks from \$30 to \$100, eliminate the ability to loan bins or racks worth more than that, and change the allowance of no more than one bin/rack per retailer at any given time from one per trade name to one per brand name family. The petitioner also proposed to amend OAR 845-013-0050 (Point of Sale Advertising Materials and Consumer Take-Aways) which describes the limited conditions under which these items may be provided to a retailer by a supplier. The one amendment in subsection (3)(g) of this rule changes the maximum size of exterior point of sale allowed from 630 square inches to 2160 square inches.

**Rules Coordinator:** Jennifer Huntsman—(503) 872-5004

## 845-013-0030

### Fixtures, Furniture, Furnishings, ORS 471.398(3)

ORS 471.398(3) prohibits a supplier (manufacturer, wholesaler, or its agents) from providing any fixtures, furniture or furnishings to a retailer. A supplier does not violate this prohibition if he/she provides a display bin or rack for manufacturer-sealed containers of alcoholic beverages for consumption off the licensed premises, if the following conditions are met:

(1) The supplier provides no more than one bin or rack per brand name family per retailer at any given time;

(2) The cost of the display bin or rack may not exceed \$100 (cost is the cost to the supplier who initially purchased or produced the bin or rack);

(3) The supplier has permanently marked the bin or rack with a brand name or trade name of the supplier’s alcoholic beverage product; and

(4) The retailer uses the bin or rack to display only products from the brand name family or trade name permanently marked on the bin or rack;

(5) For purposes of this rule, “trade name” means the operating trade name and associated business names filed by a manufacturer or wholesaler as part of the Alcohol and Tobacco Tax and Trade Bureau (TTB) basic per-

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mit, i.e. Anheuser-Busch InBev; “brand name family” means all of the alcoholic beverage products included in a particular product line which are marketed and labeled with a particular brand name, i.e. Budweiser.

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

Stats. Implemented: ORS 471.398(3)

Hist.: OLCC 8-1992, f. 8-25-92, cert. ef. 10-1-92; OLCC 6-2003, f. 4-25-03, cert. ef. 5-1-03; OLCC 4-2011, f. 4-25-11, cert. ef. 5-1-11

## 845-013-0050

### Point of Sale Advertising Materials and Consumer Take-Aways, ORS 471.398(4)

(1) A supplier (manufacturer, wholesaler, or its agents), may provide point of sale materials and consumer take-aways to a retailer provided that the conditions prescribed in section (3) of this rule are met. Suppliers may provide point of sale material only for display at the retailer’s premises. No minimum purchase may be required of a retailer in order to have an item at their premises.

(2) Definitions. For this rule:

(a) Point of sale advertising materials are items designed to be used at a retail establishment to attract consumer attention to a supplier’s products. Such materials include window decorations, posters, placards, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, calendars, alcohol beverage lists or menus, display mirrors, table tents, chalk boards, thermometers, and similar items of like value. Also allowed are signs (neon, electrical, mechanical, inflatable or otherwise). Point of sale items do not include fixtures, furniture or furnishings as prohibited by ORS 471.398(3) and OAR 845-013-0030.

(b) Consumer take-aways are items intended for use by the retailer’s customers off the premises that provide information to the retailer’s customers but do not promote the retailer’s business. Only items made of paper or other similar inexpensive material are allowed to be given to the retailer and such informational items include recipes, sports and entertainment event schedules, and informational pamphlets.

(3) Conditions and limitations.

(a) All point of sale advertising materials and consumer take-aways must bear conspicuous and substantial advertising matter about the product or the supplier that is permanently inscribed or securely affixed. The name and address of the retailer may appear on the point of sale advertising materials only.

(b) The supplier may not directly or indirectly pay or credit the retailer for using or distributing these items or for any expense incidental to their use.

(c) The Commission prohibits any advertising that contains material so appealing to minors that it encourages them to purchase, possess, or drink alcoholic beverages (OAR 845-007-0020(1)(e)).

(d) Items that predominantly advertise the supplier’s alcoholic beverage products but also advertise a generic food product are allowed. This subsection does not prohibit cross-promotions of the supplier’s alcoholic beverage product with a specific food product or brand when the food product producer is not a retail licensee; the food product producer pays at least half the cost of the cross-promotion; and any retailer who receives the item pays none of the costs. For example, a cheese manufacturer and a wine manufacturer jointly produce a poster to promote their products. As long as the cheese manufacturer is not a retail licensee, the cheese manufacturer pays at least half the costs and the retail licensee pays none of the costs, the Commission treats the poster as an alcoholic beverage/generic food product item;

(e) Items that predominantly advertise the supplier’s alcoholic beverage products but also have generic words or symbols for activities the supplier wants to associate with his/her alcoholic beverage products are allowed. Exterior material may, however, have only generic symbols relating to activities, not words.

(f) Beer, wine and distilled spirits lists. Despite OAR 845-013-0001(3)(b)(A) that limits items of nominal value to the supplier’s products, the list may include any malt beverage, wine or distilled spirit the retailer sells. Despite 845-013-0001(3)(d) that prohibits customization, the supplier may add generic food references to the list. For example, the list may indicate that a particular alcoholic beverage goes well with chicken but may not refer to a chicken dish on the retailer’s menu.

(g) Exterior point of sale material given or loaned under this rule must not exceed 2160 square inches. This means that inflatables or any point of sale material cannot be displayed in a retailer’s parking lots or other outside areas if the material exceeds 2160 square inches.

(4) A violation of any section of this rule is a Category III violation.

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

Stats. Implemented: ORS 471.398(4)

Hist.: OLCC 8-1987, f. 31-3-87, ef. 4-1-87; OLCC 7-1992, f. & cert. ef. 7-1-92; Renumbered from 845-010-0124; OLCC 5-2009, f. 4-21-09, cert. ef. 5-1-09; OLCC 4-2011, f. 4-25-11, cert. ef. 5-1-11

## Oregon Medical Board Chapter 847

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

**Adm. Order No.:** OMB 6-2011

**Filed with Sec. of State:** 4-25-2011

**Certified to be Effective:** 4-25-11

**Notice Publication Date:** 3-1-2011

**Rules Adopted:** 847-001-0022

**Rules Amended:** 847-001-0005, 847-001-0015

**Subject:** The proposed rule changes adopt the Attorney General’s 2008 rules for contested cases, delegate to the Executive Director the authority to take depositions 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—(971) 673-2713

### 847-001-0005

#### Model Rules for Contested Cases

The Oregon Medical Board adopts the Attorney General’s Uniform and Model Rules for Contested Cases of the Attorney General in effect on January 1, (2008), and all amendments thereto are hereby adopted by reference as rules of the Oregon Medical Board.

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.335, 183.341, 677.275

Hist.: ME 4, f. 11-3-71, ef. 11-15-71; ME 26, f. 3-15-72, ef. 4-1-72; ME 27, f. 3-27-72, ef. 4-15-72; ME 30, f. 3-5-74, ef. 3-25-74; ME 32, f. & ef. 5-11-76; Renumbered from 847-060-0005; ME 2-1978, f. & ef. 7-31-78; ME 3-1980, f. & ef. 5-14-80; ME 6-1980, f. & ef. 8-13-80; ME 1-1982, f. & ef. 1-28-82; ME 5-1983, f. & ef. 11-3-83; ME 2-1986, f. & ef. 4-23-86; ME 14-1987, f. & ef. 8-3-87; ME 1-1988, f. & cert. ef. 1-29-88; ME 13-1988, f. & cert. ef. 10-20-88; ME 13-1988, f. & cert. ef. 10-20-88; ME 10-1990, f. & cert. ef. 8-7-90; ME 13-1990, f. & cert. ef. 8-16-90; ME 2-1992, f. & cert. ef. 4-17-92; ME 20-1994, f. & cert. ef. 10-26-94; BME 13-2000, f. & cert. ef. 10-30-00; BME 13-2004, f. & cert. ef. 7-13-04; BME 14-2006, f. & cert. ef. 7-25-06; OMB 6-2011, f. & cert. ef. 4-25-11

### 847-001-0015

#### Delegation of Authority

(1) The Oregon Medical Board (Board) has delegated to the Executive Director the authority to make certain procedural determinations on its behalf on matters arising under the Attorney General’s Model Rules for Contested Cases in OAR 137-003-0001 to OAR 137-003-0700. The procedural functions include, but are not limited to:

(a) For discovery requests before the Board, to authorize or deny requested discovery in a contested case, to include specifying the methods, timing and extent of discovery;

(b) To review all requests to take a deposition of a witness and to authorize or deny any request for deposition. If a request to take a deposition is authorized, the Executive Director may specify the terms on which the deposition is taken, to include, but not limited to the location, the manner of recording, the time of day, the persons permitted to be present, and the duration of the deposition;

(c) Whether a request for hearing filed after the prescribed time will be accepted, based upon a finding that the cause for failure to timely file a request for hearing was beyond the reasonable control of the party. In making this determination, the Executive Director may require the request to be supported by an affidavit or other writing to explain why the request is late and may conduct such further inquiry as deemed appropriate. The Executive Director may authorize a hearing on whether the late filing should be accepted. If any party disputes the facts contained in the explanation as to why the request was late or the accuracy of the reason that the request was late, the requestor has a right to a hearing before an Administrative Law Judge (ALJ) on the reasons for that factual dispute;

(d) Whether the late filing of a document may be accepted based upon a finding of good cause;

(e) Whether to issue a subpoena for the attendance of witnesses or to produce documents at the hearing;

(f) Prior to the issuance of a proposed order issued by an ALJ, whether the Board will consider taking notice of judicially cognizable facts

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or of general, technical or scientific facts in writing which are within the specialized knowledge of the Board;

(g) The Executive Director may decide whether to submit to the Board prior to an ALJ's proposed final order the following issues:

- (A) The Board's interpretation of its rules and applicable statutes;
- (B) Which rules or statutes are applicable to a proceeding;
- (C) Whether the Board will answer a question transmitted to it by the ALJ.

(h) In regard to a proposed order issued by an ALJ, whether the Board's legal representative will file exceptions and present argument to the Board;

(i) Before issuance of a proposed order, whether a party may obtain an immediate review from the Board on any of the following:

(A) A ruling on a motion to quash a subpoena under OAR 137-003-0585;

(B) A ruling refusing to consider as evidence judicially or officially noticed facts presented by the Board under OAR 137-003-0615 that is not rebutted by a party;

(C) A ruling on the admission or exclusion of evidence based on a claim of the existence or non-existence of a privilege.

(2) All actions taken under this delegation must be reported to the Board at the regularly scheduled meeting in which the Board deliberates on the proposed order in the case.

Stat. Auth.: ORS 677.265  
Stats. Implemented: ORS 183.335, 183.341, 677.275  
Hist.: BME 13-2000, f. & cert. ef. 10-30-00; BME 13-2004, f. & cert. ef. 7-13-04; BME 14-2006, f. & cert. ef. 7-25-06; OMB 6-2011, f. & cert. ef. 4-25-11

## 847-001-0022

### Confidentiality in the Investigative Process

(1) Information pertaining to an ongoing investigation or Board action that has been disclosed to a licensee or applicant by the Board pursuant to ORS 676.175(3) is confidential and may be further disclosed by the licensee or applicant only to the extent necessary to prepare for a contested case hearing related to a Complaint and Notice of Proposed Disciplinary Action, a Notice of Denial of Licensure or an Order of Emergency Suspension issued against the licensee or applicant.

(2) All licensees and applicants under Board investigation or facing Board disciplinary action or license denial, to include consultants for a licensee, an applicant or the Board, have an obligation to protect the confidentiality of information obtained by the Board in an investigation.

(3) Violation of this rule is grounds for disciplinary action.

Stat. Auth.: ORS 677.265  
Stats. Implemented: ORS 183.335, 183.341, 67  
Hist.: OMB 6-2011, f. & cert. ef. 4-25-11

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

**Adm. Order No.:** OMB 7-2011

**Filed with Sec. of State:** 4-25-2011

**Certified to be Effective:** 4-25-11

**Notice Publication Date:** 3-1-2011

**Rules Amended:** 847-008-0070

**Subject:** 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—(971) 673-2713

## 847-008-0070

### Continuing Medical Competency (Education)

The Oregon Medical Board is committed to ensuring the continuing competence of its licensees for the protection, safety and well being of the public. All licensees must engage in a culture of continuous quality improvement and lifelong learning.

(1) Licensees renewing with Active, Administrative Medicine Active, Locum Tenens, Telemedicine Active, Telemonitoring Active, or Teleradiology Active status must demonstrate ongoing competency to practice medicine by:

(a) Ongoing participation in re-certification by an American Board of Medical Specialties (ABMS) board, the American Osteopathic Association's Bureau of Osteopathic Specialists (AOA-BOS), the American Board of Podiatric Orthopedics and Primary Podiatric Medicine (ABPOPPM), the National Commission on Certification of Physician

Assistants (NCCPA), or the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM); or

(b) 60 hours of continuing medical education (CME) per two years relevant to the licensee's current medical practice, or 30 hours of CME if licensed during the second year of the biennium, as follows:

- (A) American Medical Association (AMA) Category 1;
- (B) American Osteopathic Association (AOA) Category 1-A or 2-A;
- (C) American Podiatric Medical Association's (APMA) Council on Podiatric Medical Education approved sponsors of continuing education; or
- (D) American Academy of Physician Assistants (AAPA) Category 1 (pre-approved); or

(c) 30 hours of NCCAOM-approved courses per two years relevant to the licensee's current practice, or 15 hours if licensed during the second year of the biennium.

(2) Licensees renewing with Emeritus status must demonstrate ongoing competency by:

(a) Ongoing participation in re-certification by an ABMS board, the AOA-BOS, the ABPOPPM, the NCCPA, or the NCCAOM; or

(b) 15 hours of CME per year as follows:

- (A) AMA Category 1 or 2;
- (B) AOA Category 1-A, 1-B, 2-A or 2-B;
- (C) APMA-approved continuing education; or
- (D) AAPA Category 1 or 2; or
- (c) 8 hours of NCCAOM-approved courses.

(3) Licensees who have lifetime certification with the ABMS, AOA-BOS, ABPOPPM, or NCCPA must submit the required CME in section (1) (b) of this rule or section (2) (b) of this rule if renewing with Emeritus status.

(4) Licensees who have lifetime certification with the NCCAOM must submit the required CME in section (1) (c) of this rule or section (2) (c) of this rule if renewing with Emeritus status.

(5) Upon renewal, the Board may audit a random sample of at least 10% of licensees for compliance with CME. Audited licensees have 30 days from the date of the audit to provide course certificates. Failure to comply or misrepresentation of compliance is grounds for disciplinary action.

(6) As the result of an audit, if licensee's CME is deficient or licensee does not provide adequate documentation, the licensee will be fined \$250 and must comply with CME requirements within 90 days from the date of the audit.

(a) If the licensee does not comply within 90 days of the date of the audit, the fine will increase to \$1000; and

(b) If the licensee does not comply within 180 days of the date of the audit, the licensee's license will be suspended for a minimum of 90 days.

(7) The following licensees are exempt from this rule:

- (a) Licensees in residency training;
- (b) Licensees serving in the military who are deployed outside Oregon for 90 days or more during the reporting period; and
- (c) Volunteer Camp licensees.

Stat. Auth.: ORS 677.265  
Stats. Implemented: ORS 677.265  
Hist.: BME 2-2009, f. & cert. ef. 1-22-09; BME 16-2009, f. & cert. ef. 10-23-09; OMB 7-2011, f. & cert. ef. 4-25-11

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**Rule Caption:** Changes to EMT-P scope of practice: Central IV access, medications and blood products, ECG monitoring.

**Adm. Order No.:** OMB 8-2011

**Filed with Sec. of State:** 4-25-2011

**Certified to be Effective:** 4-25-11

**Notice Publication Date:** 2-1-2009

**Rules Amended:** 847-035-0030

**Subject:** The proposed rule change allows EMT-Ps to access indwelling catheters and implanted central IV ports for fluid and medical administration; adds language that EMT-Ps may administer any medication or blood product after adequate and appropriate instruction, including risks, benefits and use of the medication; and allows EMT-Ps to initiate and interpret ECG monitoring.

This is to correct an inadvertent filing error. Removing language from section (11)(l), adding to section (12)(i).

**Rules Coordinator:** Malar Ratnathicam—(971) 673-2713



# ADMINISTRATIVE RULES

## 847-035-0030

### Scope of Practice

(1) The Oregon Medical Board has established a scope of practice for emergency and nonemergency care for First Responders and EMTs. First Responders and EMTs may provide emergency and nonemergency care in the course of providing prehospital care as an incident of the operation of ambulance and as incidents of other public or private safety duties, but is not limited to "emergency care" as defined in OAR 847-035-0001(5).

(2) The scope of practice for First Responders and EMTs is not intended as statewide standing orders or protocols. The scope of practice is the maximum functions which may be assigned to a First Responder or EMT by a Board-approved supervising physician.

(3) Supervising physicians may not assign functions exceeding the scope of practice; however, they may limit the functions within the scope at their discretion.

(4) Standing orders for an individual EMT may be requested by the Board or Section and shall be furnished upon request.

(5) No EMT may function without assigned standing orders issued by Board-approved supervising physician.

(6) An Oregon-certified First Responder or EMT, acting through standing orders, shall respect the patient's wishes including life-sustaining treatments. Physician supervised First Responders and EMTs shall request and honor life-sustaining treatment orders executed by a physician, nurse practitioner or physician assistant if available. A patient with life-sustaining treatment orders always requires respect, comfort and hygienic care.

(7) A First Responder may perform the following procedures without having signed standing orders from a supervising physician:

- (a) Conduct primary and secondary patient examinations;
- (b) Take and record vital signs;
- (c) Utilize noninvasive diagnostic devices in accordance with manufacturer's recommendation;
- (d) Open and maintain an airway by positioning the patient's head;
- (e) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;
- (f) Provide care for soft tissue injuries;
- (g) Provide care for suspected fractures;
- (h) Assist with prehospital childbirth; and
- (i) Complete a clear and accurate prehospital emergency care report form on all patient contacts and provide a copy of that report to the senior EMT with the transporting ambulance.

(8) A First Responder may perform the following additional procedures only when the First Responder is part of an agency which has a Board-approved supervising physician who has issued written standing orders to that First Responder authorizing the following:

- (a) Administration of medical oxygen;
- (b) Maintain an open airway through the use of:
  - (A) A nasopharyngeal airway device;
  - (B) A noncuffed oropharyngeal airway device;
  - (C) A Pharyngeal suctioning device.
- (c) Operate a bag mask ventilation device with reservoir;
- (d) Provision of care for suspected medical emergencies, including administering liquid oral glucose for hypoglycemia; and
- (e) Administer epinephrine by automatic injection device for anaphylaxis;

(f) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator, only when the First Responder:

- (A) Has successfully completed a Section- approved course of instruction in the use of the automatic or semi-automatic defibrillator; and
- (B) Complies with the periodic requalification requirements for automatic or semi-automatic defibrillator as established by the Section.

(9) An Oregon-certified EMT-Basic may perform the following procedures:

- (a) Perform all procedures that an Oregon-certified First Responder can perform;
- (b) Ventilate with a non-invasive positive pressure delivery device;
- (c) Insert a cuffed pharyngeal airway device in the practice of airway maintenance. A cuffed pharyngeal airway device is:

(A) A single lumen airway device designed for blind insertion into the esophagus providing airway protection where the cuffed tube prevents gastric contents from entering the pharyngeal space; or

(B) A multi-lumen airway device designed to function either as the single lumen device when placed in the esophagus, or by insertion into the trachea where the distal cuff creates an endotracheal seal around the ventilatory tube preventing aspiration of gastric contents.

(d) 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;

# ADMINISTRATIVE RULES

(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;
- (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 thoracentesis for tension pneumothorax in a pre-hospital setting;

(i) Access indwelling catheters and implanted central IV ports for fluid and medication administration.

(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. & cert. ef. 1-29-88; ME 12-1988, f. & cert. ef. 8-5-88; ME 15-1988, f. & cert. ef. 10-20-88; ME 2-1989, f. & cert. ef. 1-25-89; ME 15-1989, f. & cert. ef. 9-5-89, & corrected 9-22-89; ME 6-1991, f. & cert. ef. 7-24-91; ME 10-1993, f. & cert. ef. 7-27-93; ME 3-1995, f. & cert. ef. 2-1-95; ME 1-1996, f. & cert. ef. 2-15-96; ME 3-1996, f. & cert. ef. 7-25-96; BME 6-1998, f. & cert. ef. 4-27-98; BME 13-1998(Temp), f. & cert. ef. 8-6-98 thru 2-2-99; BME 14-1998, f. & cert. ef. 10-26-98; BME 16-1998, f. & cert. ef. 11-24-98; BME 13-1999, f. & cert. ef. 7-23-99; BME 14-2000, f. & cert. ef. 10-30-00; BME 11-2001, f. & cert. ef. 10-30-01; BME 9-2002, f. & cert. ef. 7-17-02; BME 10-2002, f. & cert. ef. 7-22-02; BME 1-2003, f. & cert. ef. 1-27-03; BME 12-2003, f. & cert. ef. 7-15-03; BME 4-2004, f. & cert. ef. 1-27-04; BME 11-2004(Temp), f. & cert. ef. 4-22-04 thru 10-15-04; BME 12-2004(Temp), f. & cert. ef. 6-11-04 thru 12-8-04; BME 21-2004(Temp), f. & cert. ef. 11-15-04 thru 4-15-05; BME 2-2005, f. & cert. ef. 1-27-05; BME 5-2005, f. & cert. ef. 4-21-05; BME 9-2005, f. & cert. ef. 7-20-05; BME 18-2006, f. & cert. ef. 7-25-06; BME 22-2006, f. & cert. ef. 10-23-06; BME 7-2007, f. & cert. ef. 1-24-07; BME 11-2007, f. & cert. ef. 4-26-07; BME 24-2007, f. & cert. ef. 10-24-07; BME 11-2008, f. & cert. ef. 4-24-08; BME 19-2008, f. & cert. ef. 7-21-08; BME 10-2009, f. & cert. ef. 5-1-09; BME 13-2009, f. & cert. ef. 7-20-09; BME 18-2009, f. & cert. ef. 10-23-09; BME 22-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 5-2010, f. & cert. ef. 1-26-10; BME 8-2010(Temp), f. & cert. ef. 4-26-10 thru 10-15-10; BME 12-2010, f. & cert. ef. 7-26-10; BME 18-2010, f. & cert. ef. 10-25-10; OMB 1-2011, f. & cert. ef. 2-11-11; OMB 5-2011, f. & cert. ef. 4-8-11; OMB 8-2011, f. & cert. ef. 4-25-11

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

**Adm. Order No.:** OMB 9-2011

**Filed with Sec. of State:** 4-25-2011

**Certified to be Effective:** 4-25-11

**Notice Publication Date:** 3-1-2011

**Rules Adopted:** 847-065-0070

**Rules Amended:** 847-065-0010, 847-065-0015, 847-065-0020, 847-065-0025, 847-065-0030, 847-065-0035, 847-065-0040, 847-065-0045, 847-065-0050, 847-065-0055, 847-065-0060, 847-065-0065

**Subject:** The proposed rule implements the Health Professionals' Services Program (HPSP), pursuant to ORS 676.185-200, for licensees with substance use or mental disorders and contains clarifying language for positive toxicology test result, 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—(971) 673-2713

## 847-065-0010

### Purpose, Intent and Scope

The Oregon Medical Board recognizes that substance use disorders and/or mental disorders are potentially progressive, chronic diseases. The Board believes that physicians, podiatric physicians, physician assistants and acupuncturists who develop these diseases can, with appropriate treatment, be assisted with recovery and return to the practice of medicine and acupuncture. It is the intent of the Board that a licensee with a substance use disorder and/or mental disorder may have the opportunity to enter the Health Professionals' Services Program (HPSP). Participation in the HPSP does not shield a licensee from possible disciplinary action.

Stat. Auth.: ORS 676.185-200 & 677.265  
Stats. Implemented: ORS 677.185 & 677.265  
Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11

## 847-065-0015

### Definitions

The following definitions apply to OAR chapter 847, division 065, except as otherwise stated in the definition:

(1) "Assessment or evaluation" means the process an independent third-party evaluator uses to diagnose the licensee and to recommend treatment options for the licensee.

(2) "Board" means the Oregon Medical Board.

(3) "Business day" means Monday through Friday, except legal holidays as defined in ORS 187.010 (or ORS 187.020).

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(4) "Diagnosis" means the principal mental health or substance use diagnosis listed in the Diagnostic Statistical Manual (DSM). The diagnosis is determined through the assessment and any examinations, tests or consultations suggested by the assessment.

(5) "Division" means the Department of Human Services, Addictions and Mental Health Division.

(6) "DSM" means the Diagnostic and Statistical Manual of Mental Disorders, commonly referred to as DSM-IV-TR, published by the American Psychiatric Association.

(7) "Federal regulations" means:

(a) As used in ORS 676.190(1)(f)(D), a "positive toxicology test result as determined by federal regulations pertaining to drug testing" means a test result[s] that meets or exceeds the cutoff concentrations shown in 49 CFR § 40.87 (2009)

(b) As used in ORS 676.190(4)(i), requiring a "licensee to submit to random drug or alcohol testing in accordance with federal regulations" means licensees are selected for random testing by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with licensees' unique identification numbers or other comparable identifying numbers. Under the selection process used, each covered licensee must have an equal chance of being tested each time selections are made, as described in 40 CFR § 199.105(c)(5) (2009). Random drug tests must be unannounced and the dates for administering random tests must be spread reasonably throughout the calendar year, as described in 40 CFR § 199.105(c)(7) (2009).

(8) "Fitness to practice evaluation" means the process a qualified, independent third-party evaluator uses to determine if the licensee can safely perform the essential functions of the licensee's health practice.

(9) "Final enrollment" means a self-referred licensee has provided all documentation required by OAR 847-065-0035 and has met all eligibility requirements to participate in the HPSP.

(10) "Independent third-party evaluator" means an individual or center who is approved by the Board to evaluate, diagnose, and offer treatment options for substance use disorders and/or mental disorders

(11) "Licensee" means a licensed physician, podiatric physician, physician assistant or acupuncturist who is licensed or certified by the Board.

(12) "Mental disorder" means a clinically significant syndrome identified in the current DSM that is associated with disability or with significantly increased risk of

(13) "Monitoring agreement" means an individualized agreement between a licensee and the vendor that meets the requirements for a diversion agreement set by ORS 676.190.

(14) "Monitoring entity" means an independent third party that monitors licensees, vendor enrollment status, and monitoring agreement compliance.

(15) "Positive toxicology test result" means a test result that meets or exceeds the cutoff concentrations shown in 49 CFR § 40.87 (2009), a test result that shows other drugs or alcohol, or a test result that fails to show the appropriate presence of a currently prescribed drug that is part of a treatment program related to a condition being monitored by HPSP.

(16) "Provisional enrollment" means temporary enrollment, pending verification that a licensee meets all program eligibility criteria.

(17) "Self-referred licensee" means a licensee who seeks to participate in the program without a referral from the Board.

(18) "Substance abuse" means a disorder related to the taking of a drug of abuse (including alcohol); to the side effects of a medication; and to a toxin exposure, including: substance use disorders (substance dependence and substance abuse) and substance-induced disorders (including but not limited to substance intoxication, withdrawal, delirium, and dementia, as well as substance induced psychotic disorders and mood disorders), as defined in DSM criteria.

(19) "Substantial non-compliance" means that a licensee is in violation of the terms of his or her monitoring agreement in a way that gives rise to concerns about the licensee's ability or willingness to participate in the HPSP. Substantial non-compliance and non-compliance include, but are not limited to, the factors listed in ORS 676.190(1)(f). Conduct that occurred before a licensee entered into a monitoring agreement does not violate the terms of that monitoring agreement.

(20) "Successful completion" means that for the period of time deemed necessary by the vendor or the Board, the licensee has complied with the licensee's monitoring agreement to the satisfaction of the vendor and/or the Board.

(21) "Toxicology testing" means urine testing or alternative chemical monitoring including blood, saliva, breath or hair as conducted by a laboratory certified, accredited or licensed and approved for toxicology testing.

(22) "Treatment" means the planned, specific, individualized health and behavioral-health procedures, activities, services and supports that a treatment provider uses to remediate symptoms of a substance use disorder and/or mental disorder.

(23) "Vendor" means the entity that has contracted with the Division to conduct the HPSP.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11

## 847-065-0020

### Participation in Health Professionals Services Program

Effective July 1, 2010, the Board must participate in the Health Professionals' Services Program and may refer eligible licensees to the vendor in lieu of or in addition to discipline. Only licensees who meet the eligibility criteria may be referred by the Board to the vendor.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11

## 847-065-0025

### Eligibility for Participation in Health Professionals Services Program

(1) Licensee must be evaluated by an independent third-party evaluator (2) The evaluation must include a diagnosis of a substance use disorder and/or mental disorder with the appropriate diagnostic code from the DSM, and treatment options.

(3) Licensee must provide a written statement agreeing to enter the HPSP and agreeing to abide by all rules established by the Board.

(4) Licensee must enter into the "HPSP Monitoring Agreement."

(5) The Board will perform a safe practice investigation for Board-referred licensees. The vendor will perform a safe practice investigation for self-referred licensees.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11

## 847-065-0030

### Procedure for Board Referrals

(1) When the Board receives information involving a licensee who may have substance abuse and/or a mental disorder, the Board staff will investigate and complete a report to be presented at a Board meeting.

(2) The Board will review the report and determine if the licensee meets the eligibility criteria for the HPSP.

(3) If licensee meets eligibility criteria and the Board approves entry into the HPSP, the Board will provide a written referral. The referral must include:

(a) A copy of the report from the independent third-party evaluator who diagnosed the licensee;

(b) The treatment options developed by the independent third-party evaluator;

(c) A statement that the Board has investigated the licensee's professional practice and conduct;

(d) A description of any restrictions imposed by the Board or recommended by the Board on the licensee's professional practice;

(e) A written statement from the licensee agreeing to enter the HPSP and agreeing to abide by all terms and conditions established by the vendor; and

(f) A statement that the licensee has agreed to report any arrest for or conviction of a misdemeanor or felony crime to the Board within three business days after the licensee is arrested or convicted.

(4) A Board-referred licensee is enrolled in the program effective on the date the licensee signs the consents and the monitoring agreement required by ORS 676.190.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11

## 847-065-0035

### Procedure for Self- Referred Licensees

Self-referred licensees may participate in the HPSP as permitted by ORS 676.190(5).

# ADMINISTRATIVE RULES

(1) Provisional Enrollment: To be provisionally enrolled in the program, a self-referred licensee must:

(a) Sign a written consent allowing disclosure and exchange of information among the vendor, the monitoring entity, the licensee's employer, independent third-party evaluators and treatment providers;

(b) Sign a written consent allowing disclosure and exchange of information among the vendor, the Board, the monitoring entity, the licensee's employer, independent third-party evaluators and treatment providers in the event the vendor determines the licensee to be in substantial non-compliance with his or her monitoring agreement as defined in OAR 847-065-0065;

(c) Attest that the licensee is not, to the best of the licensee's knowledge, under investigation by his or her Board; and

(d) Agree to and sign a monitoring agreement.

(2) Upon provisional enrollment, the vendor must send to the monitoring entity copies of the signed consents and the monitoring agreement, described in section (1) of this rule.

(3) Final Enrollment: To move from provisional enrollment to final enrollment in the program, a self-referred licensee must:

(a) Obtain at the licensee's own expense and provide to the vendor, an independent third-party evaluator's written evaluation containing a DSM diagnosis and diagnostic code and treatment recommendations;

(b) Agree to cooperate with the vendor's investigation to determine whether the licensee's practice while impaired presents or has presented a danger to the public; and

(c) Enter into an amended monitoring agreement, if required by the vendor.

(4) Once a self-referred licensee seeks enrollment in the HPSP, failure to complete final enrollment may constitute substantial non-compliance and may be reported to the Board.

(5) Upon final enrollment of a self-referred licensee, the vendor must send to the monitoring entity a copy of the written evaluation by the independent third-party evaluator and a copy of the amended monitoring agreement, if any. The purpose of the disclosure is to permit the vendor and the monitoring entity to notify the Board if the vendor determines the licensee to be in substantial non-compliance with his or her monitoring agreement.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11

## 847-065-0040

### Disqualification Criteria

Licensees, either Board-referred or self-referred, may be disqualified from entering the HPSP for factors including, but not limited to:

(1) Licensee's disciplinary history;

(2) Severity and duration of the licensee's impairment;

(3) Extent to which licensee's practice can be limited or managed to eliminate danger to the public;

(4) If licensee's impairment cannot be managed with treatment and monitoring;

(5) Evidence of criminal history that involves injury or endangerment to others;

(6) Evidence of sexual misconduct;

(7) Evidence of non-compliance with a monitoring program from another state;

(8) Pending investigations with the Board or boards from other states;

(9) Previous Board investigations with findings of substantiated abuse or dependence; and

(10) Prior enrollment in, but failure to successfully complete, the Oregon Medical Board Health Professionals Program.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11

## 847-065-0045

### Approval of Independent Third-Party Evaluators

(1) To be approved by the Board as an independent third-party evaluator, an evaluator must be:

(a) Licensed as required by the jurisdiction in which the evaluator works;

(b) Able to provide a comprehensive assessment of and written report describing a licensee's diagnosis, degree of impairment, and treatment options; and

(c) Able to facilitate a urinalysis of the licensee at intake.

(d) The Board reserves the right to not approve an independent third-party evaluator for any reason.

(2) The Board or vendor will not accept an evaluator as independent in a particular case if, in the Board's or vendor's judgment, the evaluator's judgment is likely to be influenced by a personal or professional relationship with a licensee.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11

## 847-065-0050

### Approval of Treatment Providers

(1) To be approved by the Board as a treatment provider, a provider must be:

(a) Licensed as required by the jurisdiction in which the provider works;

(b) Able to provide appropriate treatment considering licensee's diagnosis, degree of impairment, and treatment options proposed by the independent third-party evaluator; and

(c) Able to facilitate a urinalysis of the licensee at intake.

(2) A treatment provider may not have a personal or professional relationship with a licensee.

(3) The Board will maintain a list of treatment providers available to licensees upon request.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11

## 847-065-0055

### Licensee Responsibilities

(1) All licensees must:

(a) Agree to report any arrest for or conviction of a misdemeanor or felony crime to the vendor within three business days after the licensee is arrested or convicted of the crime; [and]

(b) Comply continuously with his or her monitoring agreement, including any restrictions on his or her practice, for at least two years or longer, as specified in the monitoring agreement.

(c) Abstain from mind-altering or intoxicating substances or potentially addictive drugs, unless the drug is approved by the vendor and prescribed for a documented medical condition by a person authorized by law to prescribe the drug to the licensee;

(d) Report use of mind-altering or intoxicating substances or potentially addictive drugs within 24 hours to vendor;

(e) Participate in a treatment plan approved by a third-party evaluator or treatment provider;

(f) Limit practice as required by the vendor or the Board;

(g) Cooperate with supervised monitoring of practice;

(h) Participate in a follow-up evaluation, when necessary, of licensee's fitness to practice;

(i) Submit to random drug or alcohol testing;

(j) Report at least weekly to the vendor regarding the licensee's compliance with the monitoring agreement;

(k) Report applications for licensure in other states, changes in employment and changes in practice setting to the vendor;

(l) Agree to be responsible for the cost of evaluations, toxicology testing, treatment and monitoring;

(m) Report to the vendor any investigations or disciplinary action by any state, or state or federal agency, including Oregon;

(n) Participate in required meetings according to the treatment plan; and

(o) Maintain current license status and/or report any changes in license status.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11

## 847-065-0060

### Completion Requirements

(1) The time spent participating in a monitored program before transferring from the Health Professionals Program to the Health Professionals' Services Program effective July 1, 2010, will be counted toward the required term of monitored practice.

(2) The licensee will remain enrolled in the program for a minimum of two consecutive years.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

# ADMINISTRATIVE RULES

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11

## 847-065-0065

### Substantial Non-Compliance Criteria

(1) The vendor will report substantial non-compliance with a diversion agreement to the monitoring entity within one business day after the vendor learns of the substantial non-compliance, including but not limited to information that a licensee:

- (a) Engaged in criminal behavior;
- (b) Engaged in conduct that caused injury, death or harm to the public, including engaging in sexual impropriety with a patient;
- (c) Was impaired in a health care setting in the course of the licensee's employment;
- (d) Received a positive toxicology test result;
- (e) Violated a restriction on the license's practice imposed by the vendor or the Board;
- (f) Was admitted to the hospital for mental illness or adjudged to be mentally incompetent;
- (g) Entered into a diversion agreement, but failed to participate in the HPSP;
- (h) Was referred to the HPSP, but failed to enroll in the HPSP;
- (i) Forged, tampered, or modified a prescription;
- (j) Violated any rules of prescriptive authority;
- (k) Violated any provisions of OAR 847-065-0055;
- (l) Violated any terms of the diversion agreement; or
- (m) Failed to complete the monitored practice requirements as stated in OAR 847-065-0060.

(2) The monitoring entity will report substantial non-compliance with a diversion agreement to the Board within one business day of receiving a report from the vendor.

(3) The Board, upon being notified of a licensee's substantial non-compliance, will investigate and determine the appropriate sanction.

(4) In order to investigate a report of substantial non-compliance, the Board may request the vendor to provide the licensee's complete record, and the vendor must send these records to the Board as long as a valid release of information is in place.

Stat. Auth.: ORS 676.185-200 & 677.265  
Stats. Implemented: ORS 677.185 & 677.265  
Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11

## 847-065-0070

### Licenses with Primary Residence or Work Site Outside of Oregon

If a licensee's primary residence or work site is located outside the State of Oregon, the licensee must enroll in the HPSP, in accordance with OAR 847-065-0025 and 847-065-0030 for Board-referred or OAR 847-065-0035 for self-referred licensees, and may choose to be monitored by the out-of-state's health professional program if the following conditions are met:

(1) The other state's health professional program is substantially similar with the relevant Oregon statutes. It is the duty of the vendor to verify this information and notify the Board of any discrepancies;

(2) The other state's health professional program sends quarterly reports on the licensees to the vendor; and

(3) The other state's health professional program will promptly report any substantial non-compliance with the licensee's diversion agreement to the vendor.

Stat. Auth.: ORS 676.185-200 & 677.265  
Stats. Implemented: ORS 677.185 & 677.265  
Hist.: OMB 9-2011, f. & cert. ef. 4-25-11

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**Oregon State Lottery**  
**Chapter 177**

**Rule Caption:** Amendments clarify that smoking includes non-tobacco substances.

**Adm. Order No.:** LOTT 2-2011

**Filed with Sec. of State:** 4-29-2011

**Certified to be Effective:** 5-1-11

**Notice Publication Date:** 4-1-2011

**Rules Amended:** 177-040-0005, 177-045-0000, 177-045-0010

**Subject:** The Oregon State Lottery amended the above referenced rules to clarify that Lottery tickets and shares may not be sold in an environment where Lottery employees, representatives, or agents are

exposed to secondhand smoke from the smoking of any substance, and not just from the smoking of tobacco.

**Rules Coordinator:** Mark W. Hohlt—(503) 540-1417

## 177-040-0005

### Criteria Precluding Entering Into a Contract

The Lottery will not enter into a retailer contract when an applicant:

(1) **Age:** Is under 18 years of age.

(2) **Exclusivity:** Will be engaged exclusively in the business of selling Lottery tickets or shares.

(3) **Lottery Employee:** Is an employee of the Lottery.

(4) **Supplier/Manufacturer:** Is or will be owned or controlled by any entity or any subsidiary or parent corporation thereof, that is a supplier of instant tickets or a manufacturer of computer equipment used to determine winners in Lottery games.

(5) **Unauthorized Entity:** Is a corporation or other form of business that is not incorporated in Oregon or authorized to do business in Oregon.

(6) **Smoking:** Operates a business where selling Lottery tickets or shares would expose Oregon State Lottery employees, representatives, or agents, or Lottery equipment, terminals, tickets, or shares to a smoking environment, as defined in OAR 177-045-0000.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461

Hist.: SLC 3-1985(Temp), f. & ef. 1-15-85; SLC 8-1985, f. & ef. 6-21-85; LC 4-1990, f. & cert. ef. 4-3-90; LOTT 2-1998, f. & cert. ef. 5-28-98; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert. ef. 11-25-02; LOTT 12-2008, f. 12-23-08, cert. ef. 1-1-09; LOTT 2-2011, f. 4-29-11, cert. ef. 5-1-11

## 177-045-0000

### Definitions

For purposes of OAR chapter 177, division 45, the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

(1) **"Equipment"** means all equipment placed by the Lottery or a Lottery vendor on a retailer's premises including, but not limited to, Video Lottery<sup>SM</sup> game terminals and all equipment necessary for their operation, player-operated vending machines, validation terminals, Lottery sales terminals, display equipment, and interior and exterior signage.

(2) **"Player-operated vending machine"** means an electrical, electronic, or electro-mechanical device that dispenses Scratch-it<sup>SM</sup> or other Oregon Lottery<sup>®</sup> tickets directly to a consumer upon payment of the appropriate purchase price.

(3) **"Occurrence"** means an accident, incident, or a series of accidents or incidents arising out of a single event or originating cause and includes all resultant or concomitant losses. Each loss by earthquake, flood, freeze, or windstorm will constitute a single occurrence. If more than one earthquake or flood occurs within any 72-hour period, the State of Oregon will determine the moment when the time period began.

(4) **"Premises"** has that definition as used in OAR 177-040-0000(6).

(5) **"Secondhand smoke"** means the smoke created by burning or carrying any lighted pipe, cigar, hookah, narghile, sheesha, goza, cigarette, or tobacco product of any kind, or any other weed, plant, or combustible substance, and the smoke exhaled by an individual who engages in smoking.

(6) **"Smoking environment"** means that portion of a retailer's business where smoking of tobacco, any controlled substance as defined in ORS 475.005, including marijuana for medical purposes, or any other substance which is burned and is intended to be introduced into the human body by inhalation, occurs, or secondhand smoke is or may be present.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.200

Hist.: LOTT 16-2001(Temp), f. & cert. ef. 12-3-01 thru 5-24-02; LOTT 5-2002, f. & cert. ef. 3-25-02; LOTT 1-2004(Temp), f. & cert. ef. 1-5-04 thru 6-25-04; LOTT 9-2004, f. & cert. ef. 5-26-04; LOTT 12-2008, f. 12-23-08, cert. ef. 1-1-09; LOTT 6-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 2-2011, f. 4-29-11, cert. ef. 5-1-11

## 177-045-0010

### Equipment Management Generally

(1) **General Equipment Management:** The Director of the Lottery shall manage Lottery equipment pursuant to ORS 461.200. The Director may place or remove Lottery equipment on a retailer's premises when in the judgment of the Director it is in the best interests of the Lottery. The Lottery may discontinue or remove existing equipment, or may implement new or replacement equipment at any time and for any reason the Director determines is in the best interests of the Lottery.

# ADMINISTRATIVE RULES

(2) **Retailer's Sales:** A retailer's sales, or in the case of an applicant, estimated sales, of Lottery tickets and shares are the prime factor considered by the Director in managing Lottery equipment.

(3) **Equipment Inspection:** The Lottery may access, inspect, furnish, repair, place, replace, upgrade, modify, add, or remove Lottery equipment at a retailer's premises at any time during regular business hours.

(4) **Obsolete and Defective Equipment:** The Lottery may replace obsolete or defective equipment with new, used, or refurbished replacement equipment.

(5) **Test Equipment:** With the consent of the retailer, the Lottery may deploy equipment on the retailer's premises to test the equipment. The Director or the Director's designee shall determine how long the equipment will remain and the conditions of the test.

(6) **Other Laws:** This rule does not preclude the Lottery from removing any or all of its equipment pursuant to any other applicable law, rule, or contract provision.

(7) **Smoking Prohibition:** The Lottery will not place its equipment, terminals, tickets, or shares, in any smoking environment. The Lottery does not permit its employees, representatives, or agents to enter into, or to place Lottery equipment, terminals, tickets, or shares, or advertising in any smoking environment.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.200

Hist.: LOTT 16-2001(Temp), f. & cert. ef. 12-3-01 thru 5-24-02; LOTT 5-2002, f. & cert. ef. 3-25-02; LOTT 1-2004(Temp), f. & cert. ef. 1-5-04 thru 6-25-04; LOTT 9-2004, f. & cert. ef. 5-26-04; LOTT 12-2008, f. 12-23-08, cert. ef. 1-1-09; LOTT 2-2011, f. 4-29-11, cert. ef. 5-1-11

## Oregon State Marine Board Chapter 250

**Rule Caption:** Eliminate reference to removed Gold Ray and Savage Rapids dams.

**Adm. Order No.:** OSMB 6-2011

**Filed with Sec. of State:** 4-25-2011

**Certified to be Effective:** 5-2-11

**Notice Publication Date:** 2-1-2011

**Rules Amended:** 250-020-0151, 250-021-0040

**Rules Repealed:** 250-020-0151(T), 250-021-0040(T)

**Subject:** This rule action will eliminate rule language to reflect the removal of the Gold Ray and Savage Rapids dams on the Rogue River.

**Rules Coordinator:** June LeTarte—(503) 378-2617

### 250-020-0151

#### Boat Operations in Jackson County

(1) No person shall operate a motorboat, except those propelled by electric motors on Agate Reservoir.

(2) No person shall operate a motorboat in excess of 10 MPH on:

(a) Applegate Reservoir;

(b) Fish Lake;

(c) Hyatt Lake;

(d) Willow Lake — Southern portion as denoted by the Uniform Waterway Marker buoys.

(3) The following areas are "designated moorage areas":

(a) Willow Lake — Southwest Cove;

(b) Howard Prairie Lake — Howard Prairie Resort Marina and Klum Landing;

(c) Emigrant Lake — Spillway Cove area at the northwest corner of the lake.

(4) No person shall operate a motorboat in excess of "Slow — No Wake" speed in the moorage areas designated in section (3) of this rule. (For the purposes of this rule "Slow — No Wake" speed means the speed of the boat shall not exceed 5 MPH.)

(5) No person shall moor a boat outside the designated moorage areas set forth in section (3) of this rule for more than 48 hours without obtaining a permit from the Jackson County Parks Department.

(6) Lost Creek Lake:

(a) No person shall operate a motorboat between the breakwaters designating the Steward State Park swimming area;

(b) No person shall operate a motorboat in excess of a 5 MPH, "Slow — No Wake" speed:

(A) In the Lost Creek Arm upstream of the "narrows" as marked;

(B) Within the cove area of the Takelma Park Boat Ramp from the intake tower to shore as marked;

(C) Upstream of the Peyton Bridge.

(7) Emigrant Lake:

(a) No person shall operate a boat in excess of a "Slow — No Wake" Maximum 5 MPH speed in the Hill Creek Arm upstream of a line beginning at a point on the west shore of the Arm that is approximately 1000' southeast from the area of the point known as the Quarry and extending northeast across the arm to the nearest point of land on the east shore of the arm, as marked;

(b) No person shall operate a boat in excess of a "Slow — No Wake" Maximum 5 MPH speed in the Emigrant Creek Arm upstream of a line extending north and south across the arm that approximately coincides with the meridian of longitude equal to 122° 37' 34" North, as marked.

Stat Auth.: ORS 830.110 & 830.175

Stats. Implemented: ORS 830.110 & 830.175

Hist.: MB 30, f. 6-17-66; MB 39, f. 4-5-68; MB 84(Temp), f. & cert. ef. 5-20-77; MB 86, f. & cert. ef. 7-20-77; MB 87, f. & cert. ef. 9-16-77; MB 5-1978, f. & cert. ef. 6-15-78; Renumbered from 250-020-0175; MB 1-1980, f. 4-1-80, cert. ef. 5-1-80; MB 2-1981, f. & cert. ef. 3-3-81; MB 6-1984, f. 2-14-84, cert. ef. 2-15-84; MB 2-1990, f. & cert. ef. 2-22-90; OSMB 5-1999, f. & cert. ef. 7-1-99; OSMB 7-2002, f. & cert. ef. 10-15-02; OSMB 11-2010(Temp), f. 5-28-10, cert. ef. 6-15-10 thru 10-15-10; Administrative correction 10-26-10; OSMB 1-2011(Temp), f. & cert. ef. 1-3-11 thru 6-30-11; OSMB 6-2011, f. 4-25-11, cert. ef. 5-2-11

### 250-021-0040

#### Special Local Restrictions — Applicability

The following rules for personal watercraft are in addition to the local operating rules found in OAR chapter 250, division 20:

(1) No person shall operate a personal watercraft on the following rivers, or sections of rivers, that flow to the Pacific Ocean, with the exception of the Columbia River which is open. This restriction does not apply to reservoir impoundments on these rivers, unless otherwise noted:

(a) Chetco, above the head of tide;

(b) Rogue, closed between mouth of Snout Creek and the Applegate River. Closed above the former location of Gold Ray Dam. All other areas open;

(c) Pistol, Sixes, Elk Rivers (use OAR 250-020-0082);

(d) Coos, above its confluence with the Millicoma River;

(e) Coquille, above the Highway 42S bridge in the City of Coquille;

(f) East and West Fork Millicoma (use OAR 250-020-0064);

(g) Umpqua, above Scottsburg Park, with exception of impoundments;

(h) Siuslaw, above Highway 126 bridge at Mapleton;

(i) Alsea, Salmon, Siletz Rivers (use OAR 2500-20-0231);

(j) Kilchis, Miami, Wilson, Tillamook, Trask (use OAR 250-020-0308);

(k) Nehalem (use OAR 250-020-0300);

(l) Necanicum (use OAR 250-020-0043);

(m) Yaquina River upstream of the Toledo Airport boat ramp at RM 9.5.

(2) No person shall operate a personal watercraft on the Willamette River above the Beltline Road overpass at RM 178. This does not apply to reservoir impoundments.

(3) No person shall operate a personal watercraft on the McKenzie River system. This does not apply to reservoir impoundments.

(4) No person shall operate a personal watercraft on any tributary stream or river entering the Willamette River.

**EXCEPTION:** Personal watercraft can use the Clackamas River downstream from Clackamette Lake (RM 0.7) to the Willamette. Clackamette Lake is open to personal watercraft.

(5) No person shall operate a personal watercraft on the Deschutes River above Heritage Landing boat ramp (RM 0.5).

(6) No person shall operate a personal watercraft on the John Day River (Sherman/Gilliam County) above Tumwater Falls (RM 10).

(7) No person shall operate a personal watercraft on the Snake River from the Washington border south to Hells Canyon Dam. Oxbow and Brown-lee Reservoirs are open. The Snake River above Brownlee Reservoir is open to personal watercraft.

(8) All other rivers of this state are closed to personal watercraft.

(9) Lakes and reservoirs are open to personal watercraft subject to local operating rules found in OAR chapter 250, division 20.

Stat. Auth.: ORS 830.110, 830.175 & 830.195

Stats. Implemented: ORS 830.110, 830.175 & 830.195

Hist.: MB 3-1990, f. 5-18-90, cert. ef. 6-1-90; MB 9-1990, f. & cert. ef. 11-16-90; MB 6-1992, f. & cert. ef. 4-30-92; OSMB 1-2011(Temp), f. & cert. ef. 1-3-11 thru 6-30-11; OSMB 6-2011, f. 4-25-11, cert. ef. 5-2-11

**Rule Caption:** Establish a speed restriction zone on Foster Reservoir.

**Adm. Order No.:** OSMB 7-2011

**Filed with Sec. of State:** 4-25-2011

**Certified to be Effective:** 5-2-11

# ADMINISTRATIVE RULES

**Notice Publication Date:** 2-1-2011

**Rules Amended:** 250-020-0241

**Subject:** This rule action establishes a speed restriction of 5 MPH within 100 feet of the Edgewater RV Resort and Marina on Foster Lake in Linn County.

**Rules Coordinator:** June LeTarte—(503) 378-2617

## 250-020-0241

### Boat Operations on Foster Reservoir in Linn County

(1) Except on safe take-offs and landings, boats with skiers under tow must keep 200 feet or more from shore. A safe take-off or landing will not be considered “safe” unless it can be accomplished without risk to any swimmer or craft within 200 feet from shore line. If a safe landing as thus defined is not possible, skiers must be picked up by the boat before coming within 200 feet from shore line and brought to shore under the usual speed restrictions (5 MPH within 200 feet of shore). Boats towing skiers may exceed 5 MPH to the extent necessary to maintain the skier in a skiing position, within the 200 feet from shore line only when taking off or landing as outlined in this section.

(2) All take-offs and landings shall be made at a 45° angle to the shore.

(3) No boat shall follow behind a skier closer than 300 feet nor cross the towing boat’s bow less than 200 feet nor alongside a skier closer than 100 feet.

(4) All boats towing water skiers or other towed equipment shall proceed on a counter-clockwise course about the lake.

(5) No person shall operate a motorboat at speeds in excess of 5 MPH in the following areas:

(a) Within 200 feet of the shore, subject to section (1) of this rule;

(b) Upstream from the highway bridge crossing the Middle Santiam Arm;

(c) Upstream from the highway bridge crossing the South Santiam Arm;

(d) Within 200 feet of any designated swimming area;

(e) Within the posted areas surrounding the Gedney Creek and Lewis Creek Boat Landings,

(f) Within 100 feet of the Edgewater RV Resort and Marina, as marked.

(6) No person shall operate a boat in the area between the trash boom and the dam.

Stat. Auth.: ORS 830

Stats. Implemented: ORS 830.110 & 830.175

Hist.: MB 43, f. 7-18-69; Renumbered from 250-020-0181; OSMB 12-2010(Temp), f. 5-28-10, cert. ef. 6-1-10 thru 10-31-10; Administrative correction 11-23-10; OSMB 7-2011, f. 4-25-11, cert. ef. 5-2-11

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**Rule Caption:** Establishes an in-construction no-wake and no boating zone on the Willamette River.

**Adm. Order No.:** OSMB 8-2011

**Filed with Sec. of State:** 4-25-2011

**Certified to be Effective:** 6-1-11

**Notice Publication Date:** 3-1-2011

**Rules Amended:** 250-020-0280

**Subject:** In conjunction with the Portland-Milwaukie Light Rail Project construction, this rule establishes a bank-to-bank, slow-no-wake zone for 500 feet on either side of the bridge project effective June 15, 2011 through December 31, 2012 and an exclusion zone beneath the construction area near river mile 13.8 on the Willamette River.

**Rules Coordinator:** June LeTarte—(503) 378-2617

## 250-020-0280

### Boat Operations in Multnomah County

(1) No person shall operate a boat in excess of 5 MPH:

(a) In North Portland Harbor (Oregon Slough):

(A) From the east end of North Portland Harbor (Oregon Slough) to a point 800 yards west of the Burlington Northern Railroad Bridge, as marked;

(B) Within 200 feet of a launching ramp, moorage or houseboat from the east end of North Portland Harbor (Oregon Slough) eastward along the south shore to the Lower Airport wing dike.

(b) Within 300 feet of the entrance to and in Rooster Rock boat channel;

(c) Within 200 feet of west shore, as buoyed, between the southern boundary of Willamette Park Launch Ramp and the northern boundary of the Willamette Sailing Club;

(d) Within Hayden Bay. The Bay is considered to be all waters south and west of a line 200 feet north of the Northeast point of Hayden Island and 200 feet north of the Northwest point of Tomahawk Island as marked;

(e) Within 200 feet of the Oregon Yacht Club floating home moorage as buoyed (a distance of approximately 1,500 feet);

(f) Within 200 feet of houseboat moorages in the Government Island South Channel;

(g) No person shall operate a boat in excess of a maximum 5 MPH, “Slow — No Wake” speed on the Columbia River south of the buoys along the northern shore of Government Island in the waters adjacent to the I-205 Bridge, commonly referred to as Commodore’s Cove, as marked;

(h) Within 100 feet of the Landing Boat Club at RM 15, Willamette River.

(2) No person shall operate a recreational watercraft in excess of slow-no-wake in:

(a) The Ross Island Lagoon; and

(b) The Holgate Channel from a line extending northeast from the north side of the Ross Island Lagoon mouth to the east side of the channel, and to a line extending from the southern (upstream) tip of Ross Island due south to the Oregon Yacht Club.

(c) This restriction does not apply to commercially operated vessels including those owned or operated for sand and gravel operations, nor to safety launches while accompanying an organized rowing or paddling program, club or school.

(3) No person shall operate a boat in excess of a maximum 5 MPH, “Slow — No Wake” speed on the Columbia River within 300 feet of shore between the Big Eddy Wing dike and the wing dike east of the entrance to the Chinook Landing Boat Basin and within the Chinook Landing Boat Basin, as marked.

(4) A “pass-through” zone is established in the south channel of the Columbia River, adjacent to McGuire Island between the east end of Big Eddy Marina and the west end of McGuire Point Marina as marked.

(a) No person shall operate a motorboat pulling a water skier or towed device in this zone.

(b) No person shall operate a personal watercraft, as defined in OAR 250-021-0020, in continuous operation above 5 MPH in this area, except to transit directly through this zone.

(c) No person shall operate any motorboat in excess of slow-no wake maximum 5 MPH speed within 200 feet of any houseboat moorage within the “pass-through” zone.

(5) No person shall operate a boat in excess of 3 MPH in Rooster Rock Boat Basin.

(6) The following locations are designated racing motorboat testing areas:

(a) On the Willamette River in Swan Island Lagoon. Testing is limited to the hours of 3:06 p.m. on Thursdays, Fridays, and Saturdays;

(b) On the Columbia River between the county launching ramp at 43rd Street and Buoy #18 (NOS Chart #18531). Testing is limited to the hours of 8 a.m.–12 noon, Tuesday through Friday.

(7) No person shall operate a motorboat on Benson Lake.

(8) No person shall operate a boat for any reason within any restricted area at any time without first obtaining permission from the District Engineer, Corps of Engineers, U.S. Army, or his duly authorized representative.

(9) At Bonneville Dam.

(a) The Waters restricted to only Government vessels are described as all waters of the Columbia River and Bradford Slough within 1,000 feet above and 2,000 feet below the powerhouse. The restricted areas will be designated by signs;

(b) No person shall operate a boat, including a commercial recreational tour boat subject to inspection and licensing by the U.S. Coast Guard, within the Boating Restricted Zone located below Bonneville lock and dam bounded by a line commencing from the westernmost tip of Robins Island on the Oregon side of the Columbia River and running at a South 65 degrees West direction a distance of approximately 2100 feet to a point 50 feet upstream of the Hamilton Island Boat Ramp on the Washington side of the Columbia River, as marked.

(10) No person shall operate or anchor a boat in the following described zone in Oregon Slough (North Portland Harbor):

(a) Commencing at the northwesterly corner of that tract of land described in a Bargain and Sale Deed to RHODIA, Inc., recorded as Document No. 98028586, Multnomah County Deed Records; Thence,

# ADMINISTRATIVE RULES

along the northeasterly line of said tract, S 47°46' E, 513.54 feet to the northwest corner of the Alexander Brown Donation Land Claim; Thence, along the north line of said Claim S 48°30' E, 764.51 feet to the POINT OF BEGINNING of the SITE AREA being described herein; Thence, N 29°58'25" E, 133.84 feet; Thence, S 62°44'22" E, 461.47 feet; Thence, S 29°58'25" W, 227.76 feet to the northeasterly line of said tract; Thence, along said northeasterly line, N 61°15' W, 60.85 feet; Thence, along said northeasterly line, N 52°30' W, 115.5 feet; Thence, along said northeasterly line, N 48°30' W, 291.49 feet to the POINT OF BEGINNING as marked.

(b) This area of land contains 2.0 acres (87,008 sq. Ft.), more or less.

(c) The intent of this description is to describe a line that surrounds the limits of the sediment cap location, plus a buffer zone.

(d) Bearings based on Document No. 98028586, Multnomah County Deed Records.

(11) No person shall anchor a boat at approximately River Mile 7 of the Willamette River in Multnomah County described in Department of State Lands Easement No. 31530-EA, Exhibit A — Legal Description — Permanent Easement.

(12) No person shall operate a boat in the Willamette River:

(a) Beginning June 15, 2011, in the area beneath the temporary construction bridges or lifting cranes used for construction of the Portland-Milwaukie Light Rail Bridge near river mile 13.8.

(b) In excess of 5 MPH Slow-No-Wake as marked 500 feet upriver and 500 feet downriver from the centerline of the bridge construction project from June 15, 2011 to December 31, 2012.

Stat. Auth.: ORS 830.110, 830.175 & 830.195

Stats. Implemented: ORS 830.110 & 830.175

Hist.: MB 23, f. 9-24-63; MB 26, f. 7-20-64; MB 51, f. 5-3-73, ef. 5-15-73; MB 61, f. 7-26-74, ef. 7-26-74(Temp) & 8-25-74(Perm); Renumbered from 250-020-0155; MB 10-1982, f. 10-13-82, ef. 10-15-82; MB 12-1982, f. 12-29-82, ef. 12-31-82; MB 6-1983, f. 9-28-83, ef. 10-3-83; MB 17-1984, f. & ef. 12-3-84; MB 6-1985, f. & ef. 2-5-85; MB 10-1985, f. & ef. 4-24-85; MB 15-1985, f. 10-18-85, ef. 10-21-85; MB 20-1987, f. 11-4-87, ef. 11-15-87; MB 5-1990, f. & cert. ef. 7-19-90; MB 11-1992, f. & cert. ef. 9-16-92; MB 2-1993, f. & cert. ef. 2-3-93; MB 13-1996, f. & cert. ef. 12-4-96; OSMB 7-1998(Temp), f. & cert. ef. 5-19-98 thru 11-15-98; OSMB 7-1999, f. & cert. ef. 6-18-99; OSMB 2-2005, f. & cert. ef. 1-20-05; OSMB 8-2006, f. & cert. ef. 10-12-06; OSMB 3-2009, f. 10-21-09, cert. ef. 1-1-10; OSMB 4-2011, f. 3-7-11, cert. ef. 5-25-11; OSMB 8-2011, f. 4-25-11, cert. ef. 6-1-11

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**Rule Caption:** Establish a slow-no-wake zone on the Willamette River in Multnomah County.

**Adm. Order No.:** OSMB 9-2011(Temp)

**Filed with Sec. of State:** 5-13-2011

**Certified to be Effective:** 6-15-11 thru 10-31-11

**Notice Publication Date:**

**Rules Amended:** 250-020-0280

**Subject:** This rule will set a 5 mph-slow no wake zone within 200 feet of the Zidell Remediation Project in-water construction area.

**Rules Coordinator:** June LeTarte—(503) 378-2617

## 250-020-0280

### Boat Operations in Multnomah County

(1) No person shall operate a boat in excess of 5 MPH:

(a) In North Portland Harbor (Oregon Slough):

(A) From the east end of North Portland Harbor (Oregon Slough) to a point 800 yards west of the Burlington Northern Railroad Bridge, as marked;

(B) Within 200 feet of a launching ramp, moorage or houseboat from the east end of North Portland Harbor (Oregon Slough) eastward along the south shore to the Lower Airport wing dike.

(b) Within 300 feet of the entrance to and in Rooster Rock boat channel;

(c) Within 200 feet of west shore, as buoyed, between the southern boundary of Willamette Park Launch Ramp and the northern boundary of the Willamette Sailing Club;

(d) Within Hayden Bay. The Bay is considered to be all waters south and west of a line 200 feet north of the Northeast point of Hayden Island and 200 feet north of the Northwest point of Tomahawk Island as marked;

(e) Within 200 feet of the Oregon Yacht Club floating home moorage as buoyed (a distance of approximately 1,500 feet);

(f) Within 200 feet of houseboat moorages in the Government Island South Channel;

(g) No person shall operate a boat in excess of a maximum 5 MPH, "Slow-No Wake" speed on the Columbia River south of the buoys along the northern shore of Government Island in the waters adjacent to the I-205 Bridge, commonly referred to as Commodore's Cove, as marked;

(h) Within 100 feet of the Landing Boat Club at RM 15, Willamette River.

(2) No person shall operate a recreational watercraft in excess of slow-no-wake in:

(a) The Ross Island Lagoon; and

(b) The Holgate Channel from a line extending northeast from the north side of the Ross Island Lagoon mouth to the east side of the channel, and to a line extending from the southern (upstream) tip of Ross Island due south to the Oregon Yacht Club.

(c) This restriction does not apply to commercially operated vessels including those owned or operated for sand and gravel operations, nor to safety launches while accompanying an organized rowing or paddling program, club or school.

(3) No person shall operate a boat in excess of a maximum 5 MPH, "Slow — No Wake" speed on the Columbia River within 300 feet of shore between the Big Eddy Wing dike and the wing dike east of the entrance to the Chinook Landing boat Basin and within the Chinook Landing Boat Basin, as marked.

(4) A "pass-through" zone is established in the south channel of the Columbia River, adjacent to McGuire Island between the east end of Big Eddy Marina and the west end of McGuire Point Marina as marked.

(a) No person shall operate a motorboat pulling a water skier or towed device in this zone.

(b) No person shall operate a personal watercraft, as defined in OAR 250-021-0020, in continuous operation above 5 MPH in this area, except to transit directly through this zone.

(c) No person shall operate any motorboat in excess of slow-no wake maximum 5 MPH speed within 200 feet of any houseboat moorage within the "pass-through" zone.

(5) No person shall operate a boat in excess of 3 MPH in Rooster Rock Boat Basin.

(6) The following locations are designated racing motorboat testing areas:

(a) On the Willamette River in Swan Island Lagoon. Testing is limited to the hours of 3–6 p.m. on Thursdays, Fridays, and Saturdays;

(b) On the Columbia River between the county launching ramp at 43rd Street and Buoy #18 (NOS Chart #18531). Testing is limited to the hours of 8 a.m.–12 noon, Tuesday through Friday.

(7) No person shall operate a motorboat on Benson Lake.

(8) No person shall operate a boat for any reason within any restricted area at any time without first obtaining permission from the District Engineer, Corps of Engineers, U.S. Army, or his duly authorized representative.

(9) At Bonneville Dam.

(a) The Waters restricted to only Government vessels are described as all waters of the Columbia River and Bradford Slough within 1,000 feet above and 2,000 feet below the powerhouse. The restricted areas will be designated by signs;

(b) No person shall operate a boat, including a commercial recreational tour boat subject to inspection and licensing by the U.S. Coast Guard, within the Boating Restricted Zone located below Bonneville lock and dam bounded by a line commencing from the westernmost tip of Robins Island on the Oregon side of the Columbia River and running at a South 65 degrees West direction a distance of approximately 2100 feet to a point 50 feet upstream of the Hamilton Island Boat Ramp on the Washington side of the Columbia River, as marked.

(10) No person shall operate or anchor a boat in the following described zone in Oregon Slough (North Portland Harbor):

(a) Commencing at the northwesterly corner of that tract of land described in a Bargain and Sale Deed to RHODIA, Inc., recorded as Document No. 98028586, Multnomah County Deed Records; Thence, along the northeasterly line of said tract, S 47°46' E, 513.54 feet to the northwest corner of the Alexander Brown Donation Land Claim; Thence, along the north line of said Claim S 48°30' E, 764.51 feet to the POINT OF BEGINNING of the SITE AREA being described herein; Thence, N 29°58'25" E, 133.84 feet; Thence, S 62°44'22" E, 461.47 feet; Thence, S 29°58'25" W, 227.76 feet to the northeasterly line of said tract; Thence, along said northeasterly line, N 61°15' W, 60.85 feet; Thence, along said northeasterly line, N 52°30' W, 115.5 feet; Thence, along said northeasterly line, N 48°30' W, 291.49 feet to the POINT OF BEGINNING as marked.

(b) This area of land contains 2.0 acres (87,008 sq. Ft.), more or less.

(c) The intent of this description is to describe a line that surrounds the limits of the sediment cap location, plus a buffer zone.

(d) Bearings based on Document No. 98028586, Multnomah County Deed Records.

(11) No person shall anchor a boat at approximately River Mile 7 of the Willamette River in Multnomah County described in Department of



# ADMINISTRATIVE RULES

State Lands Easement No. 31530-EA, Exhibit A — Legal Description — Permanent Easement.

(12) No person shall operate a boat in the Willamette River:

(a) Beginning June 15, 2011, in the area beneath the temporary construction bridges or lifting cranes used for construction of the Portland-Milwaukie Light Rail Bridge near river mile 13.8.

(b) In excess of 5 MPH Slow-No-Wake as marked 500 feet upriver and 500 feet downriver from the centerline of the bridge construction project from June 15, 2011 to December 31, 2012.

(13) No person shall operate a recreational watercraft in excess of slow-no-wake on the Willamette River within approximately 200 feet of the Zidell Remediation Project in-water construction zone, as marked, from June 15 to October 31, 2011. The construction zone extends from the Marquam Bridge to a point approximately 900 feet south of the Ross Island Bridge on the west side of the Willamette River.

Stat. Auth.: ORS 830.110, 830.175 & 830.195  
Stats. Implemented: ORS 830.110 & 830.175

Hist.: MB 23, f. 9-24-63; MB 26, f. 7-20-64; MB 51, f. 5-3-73, ef. 5-15-73; MB 61, f. 7-26-74, ef. 7-26-74(Temp) & 8-25-74(Perm); Renumbered from 250-020-0155; MB 10-1982, f. 10-13-82, ef. 10-15-82; MB 12-1982, f. 12-29-82, ef. 12-31-82; MB 6-1983, f. 9-28-83, ef. 10-3-83; MB 17-1984, f. & ef. 12-3-84; MB 6-1985, f. & ef. 2-5-85; MB 10-1985, f. & ef. 4-24-85; MB 15-1985, f. 10-18-85, ef. 10-21-85; MB 20-1987, f. 11-4-87, ef. 11-15-87; MB 5-1990, f. & cert. ef. 7-19-90; MB 11-1992, f. & cert. ef. 9-16-92; MB 2-1993, f. & cert. ef. 2-3-93; MB 13-1996, f. & cert. ef. 12-4-96; OSMB 7-1998(Temp), f. & cert. ef. 5-19-98 thru 11-15-98; OSMB 7-1999, f. & cert. ef. 6-18-99; OSMB 2-2005, f. & cert. ef. 1-20-05; OSMB 8-2006, f. & cert. ef. 10-12-06; OSMB 3-2009, f. 10-21-09, cert. ef. 1-1-10; OSMB 4-2011, f. 3-7-11, cert. ef. 5-25-11; OSMB 8-2011, f. 4-25-11, cert. ef. 6-1-11; OSMB 9-2011(Temp), f. 5-13-11, cert. ef. 6-15-11 thru 10-31-11

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## Oregon University System, Western Oregon University Chapter 574

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

**Adm. Order No.:** WOU 2-2011

**Filed with Sec. of State:** 5-2-2011

**Certified to be Effective:** 5-2-11

**Notice Publication Date:** 4-1-2011

**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.

[Publications: Publications referenced are available from the Office of the Vice President for Finance and Administration at Western Oregon University.]

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: OCE 1, f. & ef. 7-12-76; OCE 1-1978, f. & ef. 10-27-78; OCE 2-1980, f. & ef. 11-5-80; OCE 1-1981, f. & ef. 1-7-81; OCE 3-1981, f. & ef. 8-7-81; OCE 4-1981, f. & ef. 11-2-81; WOSC 2-1982, f. & ef. 9-17-82; WOSC 1-1983, f. & ef. 10-11-83; WOSC 1-1985, f. & ef. 10-4-85; WOSC 1-1986, f. & ef. 10-15-86; WOSC 1-1987, f. 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; WOSC 3-1997, f. & cert. ef. 10-7-97; WOSC 1-1998, f. & cert. ef. 1-26-98; WOSC 2-1998, f. & cert. ef. 7-24-98; WOSC 1-1999, f. & cert. ef. 2-25-99; WOSC 2-1999, f. & cert. ef. 7-27-99; WOSC 1-2000, f. & cert. ef. 3-16-00; WOSC 2-2000, f. & cert. ef. 6-28-00; WOSC 1-2001, f. & cert. ef. 3-5-01; WOSC 2-2001, f. & cert. ef. 7-30-01; WOSC 1-2002, f. 3-12-02, cert. ef. 3-15-02; WOSC 2-2002, f. 8-2-02, cert. ef. 8-15-02; WOSC 3-2002, f. 10-7-02, cert. ef. 10-15-02; WOSC 1-2003, f. & cert. ef. 4-2-03; WOSC 2-2003, f. & cert. ef. 8-1-03; WOSC 1-2004, f. & cert. ef. 3-24-04; WOSC 2-2004, f. & cert. ef. 8-4-04; WOSC 1-2005, f. & cert. ef. 3-8-05; WOSC 2-2005, f. & cert. ef. 8-4-05; WOSC 3-2005, f. & cert. ef. 8-12-05; WOSC 1-2006, f. & cert. ef. 3-2-06; WOSC 2-2006, f. & cert. ef. 8-7-06; WOSC 1-2007, f. & cert. ef. 3-5-07; WOSC 2-2007, f. & cert. ef. 7-31-07; WOSC 4-2007, f. & cert. ef. 11-1-07; WOSC 1-2008, f. & cert. ef. 2-1-08; WOSC 2-2008, f. & cert. ef. 9-3-08; WOSC 1-2009, f. & cert. ef. 2-13-09; WOSC 2-2009, f. & cert. ef. 7-29-09; WOSC 1-2010, f. & cert. ef. 1-27-10; WOSC 2-2010, f. & cert. ef. 8-4-10; WOSC 1-2011, f. & cert. ef. 2-2-11; WOSC 2-2011, f. & cert. ef. 5-2-11

## Public Utility Commission Chapter 860

**Rule Caption:** In the Matter of a Rulemaking to Adopt Federal Pipeline Safety Regulation Amendments.

**Adm. Order No.:** PUC 2-2011

**Filed with Sec. of State:** 5-4-2011

**Certified to be Effective:** 5-4-11

**Notice Publication Date:** 4-1-2011

**Rules Amended:** 860-024-0020, 860-024-0021

**Subject:** Per ORS 757.039(3), the Commission has agreements with the USDOT to enforce federal pipeline safety regulations pertaining to pipeline facilities in Oregon. As a condition of those agreements, the Commission must annually certify to US Department of Transportation (USDOT) that the Commission adopted or is in the process of adopting all current federal pipeline safety regulations applicable to intrastate gas pipelines and liquefied natural gas facilities. These rule amendments update the Oregon pipeline safety rules to be current with the federal gas pipeline safety regulations and to comply with USDOT certification requirements.

**Rules Coordinator:** Diane Davis—(503) 378-4372

### 860-024-0020

#### Gas Pipeline Safety

Every gas operator must construct, operate, and maintain natural gas and other gas facilities in compliance with the standards prescribed by:

(1) 49 CFR, Part 191, and amendments through No. 14 — Transportation of Natural and Other Gas by Pipeline; Annual Reports and Incident Reports in effect on July 13, 1998.

(2) 49 CFR, Part 192, and amendments through No. 115 — Transportation of Natural and Other Gas by Pipeline; Minimum Safety Standards in effect on November 26, 2010.

(3) 49 CFR, Part 199, and amendments through No. 24 — Control of Drug and Alcohol Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations in effect on March 28, 2008.

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

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.039

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 172, f. & ef. 1-14-76 (Order No. 76-036); PUC 180, f. 4-8-77, ef. 5-1-77 (Order No. 77-232); PUC 2-1978, f. & ef. 3-16-78 (Order No. 78-158); PUC 6-1980, f. & ef. 10-22-80 (Order No. 80-777); PUC 3-1981, f. & ef. 6-4-81 (Order No. 81-361); PUC 12-1984, f. & ef. 6-5-84 (Order No. 84-424); PUC 18-1984, f. & ef. 9-4-84 (Order No. 84-685); PUC 4-1986, f. & ef. 5-5-86 (Order No. 86-456); PUC 11-1987, f. & ef. 10-8-87 (Order No. 87-861); PUC 16-1989, f. & cert. ef. 11-22-89 (Order No. 89-1529); PUC 8-1992, f. & cert. ef. 5-13-92 (Order No. 92-618 & 92-677); PUC 14-1994, f. & cert. ef. 10-20-94 (Order No. 94-1533); PUC 9-1998, f. & cert. ef. 4-28-98; PUC 19-1998, f. & cert. ef. 11-18-98; PUC 22-2003, f. & cert. ef. 11-28-03; PUC 3-2005, f. & cert. ef. 6-3-05; PUC 9-2007, f. & cert. ef. 9-10-07; PUC 5-2009, f. & cert. ef. 5-5-09; PUC 2-2011, f. & cert. ef. 5-4-11

### 860-024-0021

#### Liquefied Natural Gas Safety

Every gas operator must construct, operate, and maintain liquefied natural gas facilities in compliance with the standards prescribed by:

(1) 49 CFR, Part 191, and amendments through No. 14 — Transportation of Natural and Other Gas by Pipeline; Annual Reports and Incident Reports in effect on July 13, 1998.

(2) 49 CFR, Part 193, and amendments through No. 23 — Liquefied Natural Gas Facilities; Minimum Safety Standards in effect on November 26, 2010.

(3) 49 CFR, Part 199, and amendments through No. 24 — Control of Drug and Alcohol Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations in effect on March 28, 2008.

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

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.039

Hist.: PUC 3-1981, f. & ef. 6-4-81 (Order No. 81-361); PUC 12-1984, f. & ef. 6-5-84 (Order No. 84-424); PUC 4-1986, f. & ef. 5-5-86 (Order No. 86-456); PUC 11-1987, f. & ef. 10-8-87 (Order No. 87-861); PUC 16-1989, f. & cert. ef. 11-22-89 (Order No. 89-1529); PUC 8-1992, f. & cert. ef. 5-13-92 (Order No. 92-618 & 92-677); PUC 14-1994, f. & cert. ef. 10-20-94 (Order No. 94-1533); PUC 9-1998, f. & cert. ef. 4-28-98; PUC 19-1998, f. & cert. ef. 11-18-98; PUC 22-2003, f. & cert. ef. 11-28-03; PUC 3-2005, f. & cert. ef. 6-3-05; PUC 9-2007, f. & cert. ef. 9-10-07; PUC 5-2009, f. & cert. ef. 5-5-09; PUC 2-2011, f. & cert. ef. 5-4-11

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111-005-0010	12-13-2010	Amend(T)	1-1-2011	111-040-0050	2-11-2011	Amend	3-1-2011
111-005-0010	5-3-2011	Amend	6-1-2011	111-040-0050(T)	2-11-2011	Repeal	3-1-2011
111-005-0015	12-13-2010	Amend(T)	1-1-2011	111-050-0001	2-11-2011	Amend	3-1-2011
111-005-0015	5-3-2011	Amend	6-1-2011	111-050-0001(T)	2-11-2011	Repeal	3-1-2011
111-005-0020	12-13-2010	Amend(T)	1-1-2011	111-050-0010	2-11-2011	Amend	3-1-2011
111-005-0020	5-3-2011	Amend	6-1-2011	111-050-0010(T)	2-11-2011	Repeal	3-1-2011
111-005-0040	12-13-2010	Amend(T)	1-1-2011	111-050-0015	2-11-2011	Amend	3-1-2011
111-005-0040	5-3-2011	Amend	6-1-2011	111-050-0015(T)	2-11-2011	Repeal	3-1-2011
111-005-0042	12-13-2010	Amend(T)	1-1-2011	111-050-0016	2-11-2011	Amend	3-1-2011
111-005-0042	5-3-2011	Amend	6-1-2011	111-050-0016(T)	2-11-2011	Repeal	3-1-2011
111-005-0044	12-13-2010	Amend(T)	1-1-2011	111-050-0020	2-11-2011	Amend	3-1-2011
111-005-0044	5-3-2011	Amend	6-1-2011	111-050-0020(T)	2-11-2011	Repeal	3-1-2011
111-005-0046	12-13-2010	Amend(T)	1-1-2011	111-050-0025	2-11-2011	Amend	3-1-2011
111-005-0046	5-3-2011	Amend	6-1-2011	111-050-0025(T)	2-11-2011	Repeal	3-1-2011
111-005-0047	12-13-2010	Adopt(T)	1-1-2011	111-050-0030	2-11-2011	Amend	3-1-2011
111-005-0047	5-3-2011	Adopt	6-1-2011	111-050-0030(T)	2-11-2011	Repeal	3-1-2011
111-005-0050	12-13-2010	Amend(T)	1-1-2011	111-050-0035	2-11-2011	Amend	3-1-2011
111-005-0050	5-3-2011	Amend	6-1-2011	111-050-0035(T)	2-11-2011	Repeal	3-1-2011
111-005-0055	12-13-2010	Adopt(T)	1-1-2011	111-050-0045	2-11-2011	Amend	3-1-2011
111-005-0055	5-3-2011	Adopt	6-1-2011	111-050-0045(T)	2-11-2011	Repeal	3-1-2011
111-005-0060	12-13-2010	Suspend	1-1-2011	111-050-0050	2-11-2011	Amend	3-1-2011
111-005-0060	5-3-2011	Repeal	6-1-2011	111-050-0050(T)	2-11-2011	Repeal	3-1-2011
111-005-0070	5-3-2011	Repeal	6-1-2011	111-050-0060	2-11-2011	Amend	3-1-2011

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111-050-0065	2-11-2011	Amend	3-1-2011	137-055-1090	3-31-2011	Amend(T)	5-1-2011
111-050-0065(T)	2-11-2011	Repeal	3-1-2011	137-055-1120	3-31-2011	Amend(T)	5-1-2011
111-050-0070	2-11-2011	Amend	3-1-2011	137-055-1145	3-31-2011	Amend(T)	5-1-2011
111-050-0070(T)	2-11-2011	Repeal	3-1-2011	137-055-3220	3-31-2011	Amend(T)	5-1-2011
111-050-0075	2-11-2011	Amend	3-1-2011	137-055-3240	3-31-2011	Amend(T)	5-1-2011
111-050-0075(T)	2-11-2011	Repeal	3-1-2011	137-055-3400	3-31-2011	Amend(T)	5-1-2011
111-050-0080	2-11-2011	Amend	3-1-2011	137-055-3420	3-31-2011	Amend(T)	5-1-2011
111-050-0080(T)	2-11-2011	Repeal	3-1-2011	137-055-3430	12-27-2010	Amend	2-1-2011
111-070-0030	2-11-2011	Amend	3-1-2011	137-055-3430(T)	12-27-2010	Repeal	2-1-2011
111-070-0030(T)	2-11-2011	Repeal	3-1-2011	137-055-4040	3-31-2011	Amend(T)	5-1-2011
111-070-0040	2-11-2011	Amend	3-1-2011	137-055-4455	3-31-2011	Amend(T)	5-1-2011
111-070-0040(T)	2-11-2011	Repeal	3-1-2011	137-055-4540	3-31-2011	Amend(T)	5-1-2011
111-080-0040	12-10-2010	Adopt	1-1-2011	137-055-5080	3-31-2011	Amend(T)	5-1-2011
111-080-0040	2-15-2011	Amend(T)	3-1-2011	137-055-5220	3-31-2011	Amend(T)	5-1-2011
111-080-0045	12-10-2010	Adopt	1-1-2011	137-055-5240	3-31-2011	Amend(T)	5-1-2011
111-080-0045	2-15-2011	Amend(T)	3-1-2011	137-055-6120	3-31-2011	Amend(T)	5-1-2011
111-080-0050	12-10-2010	Adopt	1-1-2011	137-055-7020	3-31-2011	Amend(T)	5-1-2011
111-080-0050	2-15-2011	Amend(T)	3-1-2011	137-055-7040	3-31-2011	Amend(T)	5-1-2011
123-001-0700	12-1-2010	Amend	1-1-2011	137-055-7060	3-31-2011	Amend(T)	5-1-2011
123-001-0725	12-1-2010	Amend	1-1-2011	137-055-7080	3-31-2011	Suspend	5-1-2011
123-001-0750	12-1-2010	Amend	1-1-2011	137-055-7100	3-31-2011	Amend(T)	5-1-2011
123-042-0010	12-1-2010	Amend	1-1-2011	137-055-7120	3-31-2011	Amend(T)	5-1-2011
123-042-0020	12-1-2010	Amend	1-1-2011	137-055-7140	3-31-2011	Amend(T)	5-1-2011
123-042-0026	12-1-2010	Amend	1-1-2011	137-055-7160	3-31-2011	Amend(T)	5-1-2011
123-042-0036	12-1-2010	Amend	1-1-2011	137-055-7180	3-31-2011	Amend(T)	5-1-2011
123-042-0038	12-1-2010	Amend	1-1-2011	137-055-7190	3-31-2011	Amend(T)	5-1-2011
123-042-0045	12-1-2010	Amend	1-1-2011	137-078-0000	12-1-2010	Amend	1-1-2011
123-042-0055	12-1-2010	Amend	1-1-2011	137-078-0000(T)	12-1-2010	Repeal	1-1-2011
123-042-0065	12-1-2010	Amend	1-1-2011	137-078-0005	12-1-2010	Amend	1-1-2011
123-042-0076	12-1-2010	Amend	1-1-2011	137-078-0005(T)	12-1-2010	Repeal	1-1-2011
123-042-0122	12-1-2010	Amend	1-1-2011	137-078-0010	12-1-2010	Amend	1-1-2011
123-042-0132	12-1-2010	Amend	1-1-2011	137-078-0010(T)	12-1-2010	Repeal	1-1-2011
123-042-0155	12-1-2010	Amend	1-1-2011	137-078-0015	12-1-2010	Amend	1-1-2011
123-042-0165	12-1-2010	Amend	1-1-2011	137-078-0015(T)	12-1-2010	Repeal	1-1-2011
123-042-0175	12-1-2010	Amend	1-1-2011	137-078-0020	12-1-2010	Amend	1-1-2011
123-042-0180	12-1-2010	Amend	1-1-2011	137-078-0020(T)	12-1-2010	Repeal	1-1-2011
123-042-0190	12-1-2010	Amend	1-1-2011	137-078-0025	12-1-2010	Amend	1-1-2011
123-043-0025	12-1-2010	Amend	1-1-2011	137-078-0025(T)	12-1-2010	Repeal	1-1-2011
123-155-0000	1-3-2011	Am. & Ren.	2-1-2011	137-078-0030	12-1-2010	Amend	1-1-2011
123-155-0100	1-3-2011	Am. & Ren.	2-1-2011	137-078-0030(T)	12-1-2010	Repeal	1-1-2011
123-155-0150	1-3-2011	Am. & Ren.	2-1-2011	137-078-0035	12-1-2010	Amend	1-1-2011
123-155-0175	1-3-2011	Am. & Ren.	2-1-2011	137-078-0035(T)	12-1-2010	Repeal	1-1-2011
123-155-0200	1-3-2011	Am. & Ren.	2-1-2011	137-078-0040	12-1-2010	Amend	1-1-2011
123-155-0250	1-3-2011	Am. & Ren.	2-1-2011	137-078-0040(T)	12-1-2010	Repeal	1-1-2011
123-155-0270	1-3-2011	Am. & Ren.	2-1-2011	137-078-0041	12-1-2010	Adopt	1-1-2011
123-155-0300	1-3-2011	Am. & Ren.	2-1-2011	137-078-0041(T)	12-1-2010	Repeal	1-1-2011
123-155-0350	1-3-2011	Am. & Ren.	2-1-2011	137-078-0045	12-1-2010	Amend	1-1-2011
123-155-0400	1-3-2011	Am. & Ren.	2-1-2011	137-078-0045(T)	12-1-2010	Repeal	1-1-2011
123-450-0000	1-3-2011	Adopt	2-1-2011	137-078-0050	12-1-2010	Amend	1-1-2011
123-635-0050	1-3-2011	Repeal	2-1-2011	137-078-0050(T)	12-1-2010	Repeal	1-1-2011
137-020-0150	1-1-2011	Amend	2-1-2011	137-078-0051	12-1-2010	Adopt	1-1-2011
137-020-0160	1-1-2011	Amend	2-1-2011	137-078-0051(T)	12-1-2010	Repeal	1-1-2011
137-050-0700	1-4-2011	Amend	2-1-2011	137-082-0210	4-1-2011	Amend	5-1-2011
137-050-0700(T)	1-4-2011	Repeal	2-1-2011	137-082-0220	4-1-2011	Amend	5-1-2011
137-050-0745	1-26-2011	Amend(T)	3-1-2011	137-082-0230	4-1-2011	Amend	5-1-2011



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141-089-0510	3-1-2011	Repeal	4-1-2011	141-089-0830	3-1-2011	Adopt	4-1-2011
141-089-0515	3-1-2011	Repeal	4-1-2011	141-089-0835	3-1-2011	Adopt	4-1-2011
141-089-0520	3-1-2011	Repeal	4-1-2011	141-093-0100	3-1-2011	Adopt	4-1-2011
141-089-0525	3-1-2011	Repeal	4-1-2011	141-093-0103	3-1-2011	Adopt	4-1-2011
141-089-0530	3-1-2011	Repeal	4-1-2011	141-093-0104	3-1-2011	Adopt	4-1-2011
141-089-0585	3-1-2011	Repeal	4-1-2011	141-093-0105	3-1-2011	Adopt	4-1-2011
141-089-0590	3-1-2011	Repeal	4-1-2011	141-093-0107	3-1-2011	Adopt	4-1-2011
141-089-0595	3-1-2011	Repeal	4-1-2011	141-093-0110	3-1-2011	Adopt	4-1-2011
141-089-0600	3-1-2011	Repeal	4-1-2011	141-093-0115	3-1-2011	Adopt	4-1-2011
141-089-0605	3-1-2011	Repeal	4-1-2011	141-093-0120	3-1-2011	Adopt	4-1-2011
141-089-0607	3-1-2011	Repeal	4-1-2011	141-093-0125	3-1-2011	Adopt	4-1-2011
141-089-0610	3-1-2011	Repeal	4-1-2011	141-093-0130	3-1-2011	Adopt	4-1-2011
141-089-0615	3-1-2011	Repeal	4-1-2011	141-093-0135	3-1-2011	Adopt	4-1-2011
141-089-0620	3-1-2011	Adopt	4-1-2011	141-093-0140	3-1-2011	Adopt	4-1-2011
141-089-0625	3-1-2011	Adopt	4-1-2011	141-093-0141	3-1-2011	Adopt	4-1-2011
141-089-0630	3-1-2011	Adopt	4-1-2011	141-093-0145	3-1-2011	Adopt	4-1-2011
141-089-0635	3-1-2011	Adopt	4-1-2011	141-093-0150	3-1-2011	Adopt	4-1-2011
141-089-0640	3-1-2011	Adopt	4-1-2011	141-093-0151	3-1-2011	Adopt	4-1-2011
141-089-0645	3-1-2011	Adopt	4-1-2011	141-093-0155	3-1-2011	Adopt	4-1-2011
141-089-0650	3-1-2011	Adopt	4-1-2011	141-093-0160	3-1-2011	Adopt	4-1-2011
141-089-0655	3-1-2011	Adopt	4-1-2011	141-093-0165	3-1-2011	Adopt	4-1-2011
141-089-0656	3-1-2011	Adopt	4-1-2011	141-093-0170	3-1-2011	Adopt	4-1-2011
141-089-0660	3-1-2011	Adopt	4-1-2011	141-093-0175	3-1-2011	Adopt	4-1-2011
141-089-0665	3-1-2011	Adopt	4-1-2011	141-100-0000	3-1-2011	Am. & Ren.	4-1-2011
141-089-0670	3-1-2011	Adopt	4-1-2011	141-100-0010	3-1-2011	Amend	4-1-2011
141-089-0675	3-1-2011	Adopt	4-1-2011	141-100-0020	3-1-2011	Amend	4-1-2011
141-089-0680	3-1-2011	Adopt	4-1-2011	141-100-0030	3-1-2011	Amend	4-1-2011
141-089-0685	3-1-2011	Adopt	4-1-2011	141-100-0035	3-1-2011	Adopt	4-1-2011
141-089-0690	3-1-2011	Adopt	4-1-2011	141-100-0040	3-1-2011	Amend	4-1-2011
141-089-0695	3-1-2011	Adopt	4-1-2011	141-100-0050	3-1-2011	Am. & Ren.	4-1-2011
141-089-0700	3-1-2011	Adopt	4-1-2011	141-100-0052	3-1-2011	Adopt	4-1-2011
141-089-0705	3-1-2011	Adopt	4-1-2011	141-100-0055	3-1-2011	Amend	4-1-2011
141-089-0710	3-1-2011	Adopt	4-1-2011	141-100-0060	3-1-2011	Amend	4-1-2011
141-089-0715	3-1-2011	Adopt	4-1-2011	141-100-0070	3-1-2011	Amend	4-1-2011
141-089-0720	3-1-2011	Adopt	4-1-2011	141-100-0080	3-1-2011	Amend	4-1-2011
141-089-0725	3-1-2011	Adopt	4-1-2011	141-100-0090	3-1-2011	Amend	4-1-2011
141-089-0730	3-1-2011	Adopt	4-1-2011	150-280.075	1-1-2011	Amend	2-1-2011
141-089-0735	3-1-2011	Adopt	4-1-2011	150-293.525(1)(b)	1-1-2011	Amend	2-1-2011
141-089-0740	3-1-2011	Adopt	4-1-2011	150-294.175(2)-(B)	1-1-2011	Amend	2-1-2011
141-089-0745	3-1-2011	Adopt	4-1-2011	150-307.126	1-1-2011	Adopt	2-1-2011
141-089-0750	3-1-2011	Adopt	4-1-2011	150-311.160	1-1-2011	Repeal	2-1-2011
141-089-0755	3-1-2011	Adopt	4-1-2011	150-314.402(1)	1-1-2011	Amend	2-1-2011
141-089-0760	3-1-2011	Adopt	4-1-2011	150-314.665(2)-(A)	12-1-2010	Amend(T)	1-1-2011
141-089-0765	3-1-2011	Adopt	4-1-2011	150-314.665(2)-(A)	3-21-2011	Amend	5-1-2011
141-089-0770	3-1-2011	Adopt	4-1-2011	150-314.665(2)-(A) (Temp)	3-21-2011	Repeal	5-1-2011
141-089-0775	3-1-2011	Adopt	4-1-2011	150-314.665(2)-(C)	12-1-2010	Suspend	1-1-2011
141-089-0780	3-1-2011	Adopt	4-1-2011	150-314.665(2)-(C)	3-21-2011	Adopt	5-1-2011
141-089-0785	3-1-2011	Adopt	4-1-2011	150-314.665(2)-(C) (Temp)	3-21-2011	Repeal	5-1-2011
141-089-0790	3-1-2011	Adopt	4-1-2011	150-314.760	1-1-2011	Repeal	2-1-2011
141-089-0795	3-1-2011	Adopt	4-1-2011	150-315.354	12-17-2010	Amend(T)	2-1-2011
141-089-0800	3-1-2011	Adopt	4-1-2011	150-316.587(8)-(A)	1-1-2011	Amend	2-1-2011
141-089-0805	3-1-2011	Adopt	4-1-2011	150-316.OL2010.CH66	1-1-2011	Adopt	2-1-2011
141-089-0810	3-1-2011	Adopt	4-1-2011	150-323.500(9)	1-1-2011	Amend	2-1-2011
141-089-0815	3-1-2011	Adopt	4-1-2011	150-323.500(9) (T)	1-1-2011	Repeal	2-1-2011
141-089-0820	3-1-2011	Adopt	4-1-2011	150-465.101(5)-(B)	1-1-2011	Adopt	2-1-2011

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161-006-0025	7-1-2011	Amend(T)	6-1-2011	162-015-0100	1-27-2011	Repeal	3-1-2011
162-001-0010	1-27-2011	Repeal	3-1-2011	162-015-0110	1-27-2011	Repeal	3-1-2011
162-010-0030	1-27-2011	Amend	3-1-2011	162-015-0120	1-27-2011	Repeal	3-1-2011
162-011-0000	1-27-2011	Repeal	3-1-2011	162-015-0130	1-27-2011	Repeal	3-1-2011
162-011-0010	1-27-2011	Repeal	3-1-2011	162-016-0000	1-27-2011	Repeal	3-1-2011
162-011-0020	1-27-2011	Repeal	3-1-2011	165-001-0009	4-8-2011	Adopt	5-1-2011
162-011-0030	1-27-2011	Repeal	3-1-2011	165-001-0015	4-8-2011	Amend	5-1-2011
162-011-0040	1-27-2011	Repeal	3-1-2011	165-001-0016	4-8-2011	Adopt	5-1-2011
162-012-0000	1-27-2011	Repeal	3-1-2011	165-001-0034	4-8-2011	Adopt	5-1-2011
162-012-0010	1-27-2011	Repeal	3-1-2011	165-001-0036	4-8-2011	Adopt	5-1-2011
162-012-0020	1-27-2011	Repeal	3-1-2011	165-001-0040	4-8-2011	Amend	5-1-2011
162-012-0030	1-27-2011	Repeal	3-1-2011	165-010-0005	2-4-2011	Amend	3-1-2011
162-012-0040	1-27-2011	Repeal	3-1-2011	165-012-0005	4-8-2011	Amend	5-1-2011
162-012-0050	1-27-2011	Repeal	3-1-2011	165-013-0010	4-8-2011	Amend	5-1-2011
162-013-0000	1-27-2011	Repeal	3-1-2011	165-020-0005	2-4-2011	Amend	3-1-2011
162-013-0010	1-27-2011	Repeal	3-1-2011	165-020-2027	2-11-2011	Adopt(T)	3-1-2011
162-013-0020	1-27-2011	Repeal	3-1-2011	165-020-2028	2-18-2011	Adopt(T)	4-1-2011
162-013-0030	1-27-2011	Repeal	3-1-2011	165-020-2029	2-18-2011	Adopt(T)	4-1-2011
162-013-0040	1-27-2011	Repeal	3-1-2011	165-020-2030	2-22-2011	Adopt(T)	4-1-2011
162-013-0050	1-27-2011	Repeal	3-1-2011	165-020-2031	3-8-2011	Adopt(T)	4-1-2011
162-013-0060	1-27-2011	Repeal	3-1-2011	170-061-0015	2-28-2011	Amend	4-1-2011
162-014-0000	1-27-2011	Repeal	3-1-2011	170-062-0000	12-1-2010	Amend(T)	1-1-2011
162-014-0010	1-27-2011	Repeal	3-1-2011	170-062-0000	4-1-2011	Amend	5-1-2011
162-014-0020	1-27-2011	Repeal	3-1-2011	170-062-0000(T)	4-1-2011	Repeal	5-1-2011
162-014-0030	1-27-2011	Repeal	3-1-2011	172-001-0005	1-10-2011	Amend	2-1-2011
162-014-0040	1-27-2011	Repeal	3-1-2011	172-005-0000	1-10-2011	Amend	2-1-2011
162-014-0050	1-27-2011	Repeal	3-1-2011	172-005-0010	1-10-2011	Amend	2-1-2011
162-014-0060	1-27-2011	Repeal	3-1-2011	172-005-0020	1-10-2011	Amend	2-1-2011
162-014-0070	1-27-2011	Repeal	3-1-2011	172-005-0030	1-10-2011	Amend	2-1-2011
162-014-0080	1-27-2011	Repeal	3-1-2011	172-005-0040	1-10-2011	Amend	2-1-2011
162-014-0090	1-27-2011	Repeal	3-1-2011	172-005-0050	1-10-2011	Amend	2-1-2011
162-014-0100	1-27-2011	Repeal	3-1-2011	172-005-0060	1-10-2011	Amend	2-1-2011
162-014-0110	1-27-2011	Repeal	3-1-2011	172-005-0065	1-10-2011	Adopt	2-1-2011
162-014-0120	1-27-2011	Repeal	3-1-2011	172-005-0070	1-10-2011	Amend	2-1-2011
162-014-0130	1-27-2011	Repeal	3-1-2011	177-040-0000	1-1-2011	Amend	2-1-2011
162-014-0140	1-27-2011	Repeal	3-1-2011	177-040-0001	1-1-2011	Amend	2-1-2011
162-014-0150	1-27-2011	Repeal	3-1-2011	177-040-0003	1-1-2011	Amend	2-1-2011
162-014-0160	1-27-2011	Repeal	3-1-2011	177-040-0005	5-1-2011	Amend	6-1-2011
162-014-0170	1-27-2011	Repeal	3-1-2011	177-040-0024	1-1-2011	Adopt	2-1-2011
162-014-0180	1-27-2011	Repeal	3-1-2011	177-040-0070	1-1-2011	Amend	2-1-2011
162-014-0190	1-27-2011	Repeal	3-1-2011	177-045-0000	5-1-2011	Amend	6-1-2011
162-014-0200	1-27-2011	Repeal	3-1-2011	177-045-0010	5-1-2011	Amend	6-1-2011
162-014-0210	1-27-2011	Repeal	3-1-2011	177-085-0065	12-12-2010	Amend	1-1-2011
162-014-0220	1-27-2011	Repeal	3-1-2011	177-094-0080	12-1-2010	Amend	1-1-2011
162-014-0230	1-27-2011	Repeal	3-1-2011	177-098-0010	12-12-2010	Amend	1-1-2011
162-014-0240	1-27-2011	Repeal	3-1-2011	177-098-0040	12-12-2010	Amend	1-1-2011
162-015-0000	1-27-2011	Repeal	3-1-2011	177-098-0060	12-12-2010	Amend	1-1-2011
162-015-0010	1-27-2011	Repeal	3-1-2011	177-098-0110	12-12-2010	Amend	1-1-2011
162-015-0020	1-27-2011	Repeal	3-1-2011	177-099-0100	3-1-2011	Adopt	4-1-2011
162-015-0030	1-27-2011	Repeal	3-1-2011	190-001-0000	12-1-2010	Repeal	1-1-2011
162-015-0040	1-27-2011	Repeal	3-1-2011	190-001-0005	12-1-2010	Repeal	1-1-2011
162-015-0050	1-27-2011	Repeal	3-1-2011	190-010-0000	1-3-2011	Repeal	2-1-2011
162-015-0060	1-27-2011	Repeal	3-1-2011	190-010-0005	1-3-2011	Repeal	2-1-2011
162-015-0070	1-27-2011	Repeal	3-1-2011	190-010-0010	1-3-2011	Repeal	2-1-2011
162-015-0080	1-27-2011	Repeal	3-1-2011	190-010-0015	1-3-2011	Repeal	2-1-2011

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190-010-0025	1-3-2011	Repeal	2-1-2011	257-050-0200	3-8-2011	Amend	4-1-2011
190-010-0030	1-3-2011	Repeal	2-1-2011	259-008-0011	12-23-2010	Amend	2-1-2011
190-010-0035	1-3-2011	Am. & Ren.	2-1-2011	259-008-0011(T)	12-23-2010	Repeal	2-1-2011
190-010-0040	1-3-2011	Repeal	2-1-2011	259-008-0025	5-1-2011	Amend	5-1-2011
213-013-0010	1-1-2012	Amend	1-1-2011	259-009-0005	5-1-2011	Amend	5-1-2011
213-017-0006	12-26-2010	Amend	1-1-2011	259-009-0062	5-1-2011	Amend	5-1-2011
213-017-0006(T)	12-26-2010	Repeal	1-1-2011	259-009-0070	4-1-2011	Amend	4-1-2011
213-070-0000	1-1-2011	Adopt	1-1-2011	259-025-0000	6-1-2011	Amend	6-1-2011
213-070-0005	1-1-2011	Adopt	1-1-2011	274-031-0001	3-24-2011	Adopt	5-1-2011
213-070-0010	1-1-2011	Adopt	1-1-2011	274-031-0002	3-24-2011	Adopt	5-1-2011
213-070-0020	1-1-2011	Adopt	1-1-2011	274-031-0003	3-24-2011	Adopt	5-1-2011
213-070-0030	1-1-2011	Adopt	1-1-2011	274-031-0004	3-24-2011	Adopt	5-1-2011
213-070-0040	1-1-2011	Adopt	1-1-2011	274-031-0005	3-24-2011	Adopt	5-1-2011
213-070-0050	1-1-2011	Adopt	1-1-2011	274-031-0006	3-24-2011	Adopt	5-1-2011
250-010-0430	2-1-2011	Amend	2-1-2011	274-031-0007	3-24-2011	Adopt	5-1-2011
250-010-0450	2-1-2011	Amend	2-1-2011	274-031-0008	3-24-2011	Adopt	5-1-2011
250-010-0650	2-1-2011	Amend	2-1-2011	274-031-0009	3-24-2011	Adopt	5-1-2011
250-020-0151	1-3-2011	Amend(T)	2-1-2011	291-006-0005	3-1-2011	Amend	4-1-2011
250-020-0151	5-2-2011	Amend	6-1-2011	291-006-0011	3-1-2011	Adopt	4-1-2011
250-020-0151(T)	5-2-2011	Repeal	6-1-2011	291-006-0012	3-1-2011	Adopt	4-1-2011
250-020-0221	4-8-2011	Amend(T)	5-1-2011	291-006-0015	3-1-2011	Amend	4-1-2011
250-020-0241	5-2-2011	Amend	6-1-2011	291-006-0020	3-1-2011	Repeal	4-1-2011
250-020-0280	5-25-2011	Amend	4-1-2011	291-006-0025	3-1-2011	Repeal	4-1-2011
250-020-0280	6-1-2011	Amend	6-1-2011	291-006-0031	3-1-2011	Adopt	4-1-2011
250-020-0280	6-15-2011	Amend(T)	6-1-2011	291-006-0035	3-1-2011	Adopt	4-1-2011
250-021-0040	1-3-2011	Amend(T)	2-1-2011	291-006-0040	3-1-2011	Adopt	4-1-2011
250-021-0040	5-2-2011	Amend	6-1-2011	291-006-0045	3-1-2011	Adopt	4-1-2011
250-021-0040(T)	5-2-2011	Repeal	6-1-2011	291-015-0100	11-19-2010	Amend	1-1-2011
255-001-0005	1-11-2011	Amend	2-1-2011	291-015-0100(T)	11-19-2010	Repeal	1-1-2011
255-001-0010	1-11-2011	Amend	2-1-2011	291-015-0105	11-19-2010	Amend	1-1-2011
255-001-0016	1-11-2011	Amend	2-1-2011	291-015-0105(T)	11-19-2010	Repeal	1-1-2011
255-005-0005	12-1-2010	Amend	1-1-2011	291-015-0110	11-19-2010	Amend	1-1-2011
255-005-0005(T)	12-1-2010	Repeal	1-1-2011	291-015-0110(T)	11-19-2010	Repeal	1-1-2011
255-015-0015	12-1-2010	Amend	1-1-2011	291-015-0115	11-19-2010	Amend	1-1-2011
255-020-0005	3-4-2011	Amend	4-1-2011	291-015-0115(T)	11-19-2010	Repeal	1-1-2011
255-020-0015	3-4-2011	Amend	4-1-2011	291-015-0120	11-19-2010	Amend	1-1-2011
255-030-0027	12-1-2010	Amend	1-1-2011	291-015-0120(T)	11-19-2010	Repeal	1-1-2011
255-030-0027(T)	12-1-2010	Repeal	1-1-2011	291-015-0125	11-19-2010	Amend	1-1-2011
255-060-0018	1-11-2011	Adopt	2-1-2011	291-015-0125(T)	11-19-2010	Repeal	1-1-2011
255-080-0001	12-1-2010	Amend	1-1-2011	291-015-0130	11-19-2010	Repeal	1-1-2011
255-080-0005	12-1-2010	Amend	1-1-2011	291-015-0135	11-19-2010	Amend	1-1-2011
255-080-0008	12-1-2010	Adopt	1-1-2011	291-015-0135(T)	11-19-2010	Repeal	1-1-2011
255-080-0008	12-1-2010	Amend	1-1-2011	291-015-0140	11-19-2010	Repeal	1-1-2011
255-080-0011	12-1-2010	Amend	1-1-2011	291-015-0145	11-19-2010	Repeal	1-1-2011
257-010-0015	2-28-2011	Amend	3-1-2011	291-015-0150	11-19-2010	Repeal	1-1-2011
257-010-0015(T)	2-28-2011	Repeal	3-1-2011	291-027-0020	5-2-2011	Amend	6-1-2011
257-010-0020	2-28-2011	Amend	3-1-2011	291-027-0030	5-2-2011	Amend	6-1-2011
257-010-0020(T)	2-28-2011	Repeal	3-1-2011	291-027-0040	5-2-2011	Amend	6-1-2011
257-010-0025	2-28-2011	Amend	3-1-2011	291-027-0050	5-2-2011	Amend	6-1-2011
257-010-0025(T)	2-28-2011	Repeal	3-1-2011	291-027-0055	5-2-2011	Adopt	6-1-2011
257-010-0045	2-28-2011	Amend	3-1-2011	291-027-0060	5-2-2011	Repeal	6-1-2011
257-010-0045(T)	2-28-2011	Repeal	3-1-2011	291-027-0065	5-2-2011	Adopt	6-1-2011
257-010-0050	2-28-2011	Amend	3-1-2011	291-027-0070	5-2-2011	Amend	6-1-2011
257-010-0050(T)	2-28-2011	Repeal	3-1-2011	291-027-0080	5-2-2011	Amend	6-1-2011
257-010-0055	2-28-2011	Amend	3-1-2011	291-048-0100	12-13-2010	Am. & Ren.(T)	1-1-2011

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291-048-0100(T)	4-1-2011	Repeal	5-1-2011	291-097-0050	4-8-2011	Amend	5-1-2011
291-048-0110	12-13-2010	Am. & Ren.(T)	1-1-2011	291-097-0050(T)	4-8-2011	Repeal	5-1-2011
291-048-0110	4-1-2011	Am. & Ren.	5-1-2011	291-109-0100	3-1-2011	Amend	4-1-2011
291-048-0110(T)	4-1-2011	Repeal	5-1-2011	291-109-0110	3-1-2011	Amend	4-1-2011
291-048-0115	12-13-2010	Am. & Ren.(T)	1-1-2011	291-109-0120	3-1-2011	Amend	4-1-2011
291-048-0115	4-1-2011	Am. & Ren.	5-1-2011	291-109-0125	3-1-2011	Adopt	4-1-2011
291-048-0115(T)	4-1-2011	Repeal	5-1-2011	291-109-0140	3-1-2011	Amend	4-1-2011
291-048-0120	12-13-2010	Suspend	1-1-2011	291-109-0150	3-1-2011	Amend	4-1-2011
291-048-0120	4-1-2011	Repeal	5-1-2011	291-109-0160	3-1-2011	Amend	4-1-2011
291-048-0130	12-13-2010	Am. & Ren.(T)	1-1-2011	291-109-0170	3-1-2011	Amend	4-1-2011
291-048-0130	4-1-2011	Am. & Ren.	5-1-2011	291-109-0180	3-1-2011	Amend	4-1-2011
291-048-0130(T)	4-1-2011	Repeal	5-1-2011	291-109-0190	3-1-2011	Amend	4-1-2011
291-048-0140	12-13-2010	Am. & Ren.(T)	1-1-2011	291-124-0005	11-19-2010	Amend	1-1-2011
291-048-0140	4-1-2011	Am. & Ren.	5-1-2011	291-124-0010	11-19-2010	Amend	1-1-2011
291-048-0140(T)	4-1-2011	Repeal	5-1-2011	291-124-0015	11-19-2010	Repeal	1-1-2011
291-048-0150	12-13-2010	Am. & Ren.(T)	1-1-2011	291-124-0016	11-19-2010	Adopt	1-1-2011
291-048-0150	4-1-2011	Am. & Ren.	5-1-2011	291-124-0017	11-19-2010	Adopt	1-1-2011
291-048-0150(T)	4-1-2011	Repeal	5-1-2011	291-124-0020	11-19-2010	Amend	1-1-2011
291-048-0160	12-13-2010	Am. & Ren.(T)	1-1-2011	291-124-0025	11-19-2010	Repeal	1-1-2011
291-048-0160	4-1-2011	Am. & Ren.	5-1-2011	291-124-0030	11-19-2010	Amend	1-1-2011
291-048-0160(T)	4-1-2011	Repeal	5-1-2011	291-124-0035	11-19-2010	Amend	1-1-2011
291-048-0170	12-13-2010	Am. & Ren.(T)	1-1-2011	291-124-0041	11-19-2010	Amend	1-1-2011
291-048-0170	4-1-2011	Am. & Ren.	5-1-2011	291-124-0055	11-19-2010	Amend	1-1-2011
291-048-0170(T)	4-1-2011	Repeal	5-1-2011	291-124-0060	11-19-2010	Amend	1-1-2011
291-048-0180	12-13-2010	Suspend	1-1-2011	291-124-0065	11-19-2010	Amend	1-1-2011
291-048-0180	4-1-2011	Repeal	5-1-2011	291-124-0070	11-19-2010	Amend	1-1-2011
291-048-0190	12-13-2010	Am. & Ren.(T)	1-1-2011	291-124-0075	11-19-2010	Amend	1-1-2011
291-048-0190	4-1-2011	Am. & Ren.	5-1-2011	291-124-0080	11-19-2010	Amend	1-1-2011
291-048-0190(T)	4-1-2011	Repeal	5-1-2011	291-124-0085	11-19-2010	Amend	1-1-2011
291-048-0230	12-13-2010	Adopt(T)	1-1-2011	291-124-0090	11-19-2010	Adopt	1-1-2011
291-048-0230	4-1-2011	Adopt	5-1-2011	291-124-0095	11-19-2010	Repeal	1-1-2011
291-048-0230(T)	4-1-2011	Repeal	5-1-2011	291-131-0020	4-1-2011	Amend(T)	4-1-2011
291-048-0240	12-13-2010	Adopt(T)	1-1-2011	291-131-0025	4-1-2011	Amend(T)	4-1-2011
291-048-0240	4-1-2011	Adopt	5-1-2011	291-131-0035	4-1-2011	Amend(T)	4-1-2011
291-048-0240(T)	4-1-2011	Repeal	5-1-2011	291-131-0037	4-1-2011	Amend(T)	4-1-2011
291-048-0270	12-13-2010	Adopt(T)	1-1-2011	291-180-0115	3-4-2011	Suspend	4-1-2011
291-048-0270	4-1-2011	Adopt	5-1-2011	291-180-0125	3-4-2011	Suspend	4-1-2011
291-048-0270(T)	4-1-2011	Repeal	5-1-2011	291-180-0135	3-4-2011	Suspend	4-1-2011
291-048-0280	12-13-2010	Adopt(T)	1-1-2011	291-180-0145	3-4-2011	Suspend	4-1-2011
291-048-0280	4-1-2011	Adopt	5-1-2011	291-180-0155	3-4-2011	Suspend	4-1-2011
291-048-0280(T)	4-1-2011	Repeal	5-1-2011	291-180-0165	3-4-2011	Suspend	4-1-2011
291-048-0320	12-13-2010	Adopt(T)	1-1-2011	291-180-0175	3-4-2011	Suspend	4-1-2011
291-048-0320	4-1-2011	Adopt	5-1-2011	291-180-0185	3-4-2011	Suspend	4-1-2011
291-048-0320(T)	4-1-2011	Repeal	5-1-2011	291-180-0195	3-4-2011	Suspend	4-1-2011
291-063-0010	12-1-2010	Amend(T)	1-1-2011	291-180-0205	3-4-2011	Suspend	4-1-2011
291-063-0016	12-1-2010	Amend(T)	1-1-2011	291-180-0215	3-4-2011	Suspend	4-1-2011
291-063-0030	12-1-2010	Amend(T)	1-1-2011	291-180-0225	3-4-2011	Suspend	4-1-2011
291-097-0010	4-8-2011	Amend	5-1-2011	291-180-0235	3-4-2011	Suspend	4-1-2011
291-097-0010(T)	4-8-2011	Repeal	5-1-2011	291-180-0245	3-4-2011	Suspend	4-1-2011
291-097-0020	4-8-2011	Amend	5-1-2011	291-180-0251	3-4-2011	Adopt(T)	4-1-2011
291-097-0020(T)	4-8-2011	Repeal	5-1-2011	291-180-0255	3-4-2011	Suspend	4-1-2011
291-097-0025	4-8-2011	Amend	5-1-2011	291-180-0261	3-4-2011	Adopt(T)	4-1-2011
291-097-0025(T)	4-8-2011	Repeal	5-1-2011	291-180-0285	3-4-2011	Suspend	4-1-2011
291-097-0031	4-8-2011	Adopt	5-1-2011	291-180-0295	3-4-2011	Suspend	4-1-2011
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291-180-0325	3-4-2011	Suspend	4-1-2011	309-034-0420	2-4-2011	Amend	3-1-2011
291-180-0335	3-4-2011	Suspend	4-1-2011	309-034-0430	2-4-2011	Amend	3-1-2011
291-180-0345	3-4-2011	Suspend	4-1-2011	309-034-0440	2-4-2011	Amend	3-1-2011
291-180-0355	3-4-2011	Suspend	4-1-2011	309-034-0450	2-4-2011	Amend	3-1-2011
291-180-0365	3-4-2011	Suspend	4-1-2011	309-034-0460	2-4-2011	Amend	3-1-2011
291-180-0375	3-4-2011	Suspend	4-1-2011	309-034-0470	2-4-2011	Amend	3-1-2011
291-180-0385	3-4-2011	Suspend	4-1-2011	309-034-0480	2-4-2011	Amend	3-1-2011
291-180-0395	3-4-2011	Suspend	4-1-2011	309-034-0490	2-4-2011	Amend	3-1-2011
291-180-0405	3-4-2011	Suspend	4-1-2011	309-034-0500	2-4-2011	Adopt	3-1-2011
291-180-0415	3-4-2011	Suspend	4-1-2011	309-041-0200	2-1-2011	Repeal	3-1-2011
291-180-0425	3-4-2011	Suspend	4-1-2011	309-041-0205	2-1-2011	Repeal	3-1-2011
291-180-0435	3-4-2011	Suspend	4-1-2011	309-041-0210	2-1-2011	Repeal	3-1-2011
291-180-0445	3-4-2011	Suspend	4-1-2011	309-041-0215	2-1-2011	Repeal	3-1-2011
291-180-0455	3-4-2011	Suspend	4-1-2011	309-041-0220	2-1-2011	Repeal	3-1-2011
291-180-0465	3-4-2011	Suspend	4-1-2011	309-041-0225	2-1-2011	Repeal	3-1-2011
291-180-0475	3-4-2011	Suspend	4-1-2011	309-041-0230	2-1-2011	Repeal	3-1-2011
291-180-0485	3-4-2011	Suspend	4-1-2011	309-041-0235	2-1-2011	Repeal	3-1-2011
291-180-0495	3-4-2011	Suspend	4-1-2011	309-041-0240	2-1-2011	Repeal	3-1-2011
291-180-0505	3-4-2011	Suspend	4-1-2011	309-041-0245	2-1-2011	Repeal	3-1-2011
291-180-0515	3-4-2011	Suspend	4-1-2011	309-041-0250	2-1-2011	Repeal	3-1-2011
291-180-0525	3-4-2011	Suspend	4-1-2011	309-041-0255	2-1-2011	Repeal	3-1-2011
291-180-0535	3-4-2011	Suspend	4-1-2011	309-041-1300	2-1-2011	Renumber	3-1-2011
291-180-0545	3-4-2011	Suspend	4-1-2011	309-041-1310	2-1-2011	Renumber	3-1-2011
291-180-0555	3-4-2011	Suspend	4-1-2011	309-041-1320	2-1-2011	Renumber	3-1-2011
291-180-0565	3-4-2011	Suspend	4-1-2011	309-041-1330	2-1-2011	Renumber	3-1-2011
291-180-0575	3-4-2011	Suspend	4-1-2011	309-041-1340	2-1-2011	Renumber	3-1-2011
291-180-0585	3-4-2011	Suspend	4-1-2011	309-041-1350	2-1-2011	Renumber	3-1-2011
291-180-0595	3-4-2011	Suspend	4-1-2011	309-041-1360	2-1-2011	Renumber	3-1-2011
291-180-0605	3-4-2011	Suspend	4-1-2011	309-041-1370	2-1-2011	Renumber	3-1-2011
291-180-0615	3-4-2011	Suspend	4-1-2011	309-043-0000	2-1-2011	Repeal	3-1-2011
291-180-0625	3-4-2011	Suspend	4-1-2011	309-043-0005	2-1-2011	Repeal	3-1-2011
291-180-0635	3-4-2011	Suspend	4-1-2011	309-043-0010	2-1-2011	Repeal	3-1-2011
291-180-0645	3-4-2011	Suspend	4-1-2011	309-043-0015	2-1-2011	Repeal	3-1-2011
291-180-0655	3-4-2011	Suspend	4-1-2011	309-043-0020	2-1-2011	Repeal	3-1-2011
291-180-0665	3-4-2011	Suspend	4-1-2011	309-043-0025	2-1-2011	Repeal	3-1-2011
291-202-0020	1-28-2011	Amend	3-1-2011	309-043-0030	2-1-2011	Repeal	3-1-2011
291-202-0100	1-28-2011	Adopt	3-1-2011	309-043-0035	2-1-2011	Repeal	3-1-2011
291-202-0110	1-28-2011	Adopt	3-1-2011	309-043-0040	2-1-2011	Repeal	3-1-2011
291-202-0120	1-28-2011	Adopt	3-1-2011	309-043-0045	2-1-2011	Repeal	3-1-2011
291-202-0130	1-28-2011	Adopt	3-1-2011	309-043-0050	2-1-2011	Repeal	3-1-2011
309-034-0150	2-4-2011	Repeal	3-1-2011	309-043-0055	2-1-2011	Repeal	3-1-2011
309-034-0160	2-4-2011	Repeal	3-1-2011	309-043-0060	2-1-2011	Repeal	3-1-2011
309-034-0170	2-4-2011	Repeal	3-1-2011	309-043-0065	2-1-2011	Repeal	3-1-2011
309-034-0180	2-4-2011	Repeal	3-1-2011	309-043-0070	2-1-2011	Repeal	3-1-2011
309-034-0190	2-4-2011	Repeal	3-1-2011	309-043-0075	2-1-2011	Repeal	3-1-2011
309-034-0205	2-4-2011	Repeal	3-1-2011	309-043-0080	2-1-2011	Repeal	3-1-2011
309-034-0210	2-4-2011	Repeal	3-1-2011	309-043-0085	2-1-2011	Repeal	3-1-2011
309-034-0240	2-4-2011	Repeal	3-1-2011	309-043-0090	2-1-2011	Repeal	3-1-2011
309-034-0250	2-4-2011	Repeal	3-1-2011	309-043-0095	2-1-2011	Repeal	3-1-2011
309-034-0260	2-4-2011	Repeal	3-1-2011	309-043-0100	2-1-2011	Repeal	3-1-2011
309-034-0270	2-4-2011	Repeal	3-1-2011	309-043-0105	2-1-2011	Repeal	3-1-2011
309-034-0290	2-4-2011	Repeal	3-1-2011	309-043-0110	2-1-2011	Repeal	3-1-2011
309-034-0310	2-4-2011	Repeal	3-1-2011	309-043-0115	2-1-2011	Repeal	3-1-2011
309-034-0320	2-4-2011	Repeal	3-1-2011	309-043-0120	2-1-2011	Repeal	3-1-2011
309-034-0400	2-4-2011	Amend	3-1-2011	309-043-0125	2-1-2011	Repeal	3-1-2011

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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	330-09-0140	4-18-2011	Amend(T)	5-1-2011
309-043-0185	2-1-2011	Repeal	3-1-2011	330-090-0105	11-23-2010	Amend	1-1-2011
309-043-0190	2-1-2011	Repeal	3-1-2011	330-090-0105(T)	11-23-2010	Repeal	1-1-2011
309-043-0195	2-1-2011	Repeal	3-1-2011	330-090-0110	11-23-2010	Amend	1-1-2011
309-043-0200	2-1-2011	Repeal	3-1-2011	330-090-0110	4-18-2011	Amend(T)	5-1-2011
309-049-0000	2-1-2011	Repeal	3-1-2011	330-090-0110(T)	11-23-2010	Repeal	1-1-2011
309-049-0005	2-1-2011	Repeal	3-1-2011	330-090-0120	11-23-2010	Amend	1-1-2011
309-049-0010	2-1-2011	Repeal	3-1-2011	330-090-0120(T)	11-23-2010	Repeal	1-1-2011
309-049-0015	2-1-2011	Repeal	3-1-2011	330-090-0130	11-23-2010	Amend	1-1-2011
309-049-0020	2-1-2011	Repeal	3-1-2011	330-090-0130	4-18-2011	Amend(T)	5-1-2011
309-100-0100	1-7-2011	Adopt(T)	2-1-2011	330-090-0130(T)	11-23-2010	Repeal	1-1-2011
309-100-0110	1-7-2011	Adopt(T)	2-1-2011	330-090-0133	11-23-2010	Amend	1-1-2011
309-100-0120	1-7-2011	Adopt(T)	2-1-2011	330-090-0133	4-18-2011	Amend(T)	5-1-2011
309-100-0130	1-7-2011	Adopt(T)	2-1-2011	330-090-0133(T)	11-23-2010	Repeal	1-1-2011
309-100-0140	1-7-2011	Adopt(T)	2-1-2011	330-090-0140	11-23-2010	Amend	1-1-2011
309-100-0150	1-7-2011	Adopt(T)	2-1-2011	330-090-0140(T)	11-23-2010	Repeal	1-1-2011
309-102-0000	1-7-2011	Suspend	2-1-2011	330-090-0150	11-23-2010	Amend	1-1-2011
309-102-0005	1-7-2011	Suspend	2-1-2011	330-090-0150(T)	11-23-2010	Repeal	1-1-2011
309-102-0010	1-7-2011	Suspend	2-1-2011	330-090-0350	11-23-2010	Adopt	1-1-2011
309-102-0015	1-7-2011	Suspend	2-1-2011	330-090-0350(T)	11-23-2010	Repeal	1-1-2011
309-102-0020	1-7-2011	Suspend	2-1-2011	330-090-0450	11-23-2010	Adopt	1-1-2011
309-102-0025	1-7-2011	Suspend	2-1-2011	330-090-0450(T)	11-23-2010	Repeal	1-1-2011
309-114-0005	11-19-2010	Amend(T)	1-1-2011	330-112-0000	12-15-2010	Adopt	1-1-2011
309-114-0020	11-19-2010	Amend(T)	1-1-2011	330-112-0000(T)	12-15-2010	Repeal	1-1-2011
309-114-0030	11-19-2010	Amend(T)	1-1-2011	330-112-0010	12-15-2010	Adopt	1-1-2011
309-114-0040	11-19-2010	Adopt(T)	1-1-2011	330-112-0010(T)	12-15-2010	Repeal	1-1-2011
309-114-0050	11-19-2010	Adopt(T)	1-1-2011	330-112-0020	12-15-2010	Adopt	1-1-2011
309-114-0060	11-19-2010	Adopt(T)	1-1-2011	330-112-0020(T)	12-15-2010	Repeal	1-1-2011
309-114-0070	11-19-2010	Adopt(T)	1-1-2011	330-112-0030	12-15-2010	Adopt	1-1-2011
330-070-0010	12-22-2010	Amend	2-1-2011	330-112-0030(T)	12-15-2010	Repeal	1-1-2011
330-070-0010(T)	12-22-2010	Repeal	2-1-2011	330-112-0040	12-15-2010	Adopt	1-1-2011
330-070-0013	12-22-2010	Amend	2-1-2011	330-112-0040(T)	12-15-2010	Repeal	1-1-2011
330-070-0013(T)	12-22-2010	Repeal	2-1-2011	330-112-0050	12-15-2010	Adopt	1-1-2011
330-070-0014	12-22-2010	Amend	2-1-2011	330-112-0050(T)	12-15-2010	Repeal	1-1-2011
330-070-0019	12-22-2010	Adopt	2-1-2011	330-112-0060	12-15-2010	Adopt	1-1-2011
330-070-0019(T)	12-22-2010	Repeal	2-1-2011	330-112-0060(T)	12-15-2010	Repeal	1-1-2011
330-070-0020	12-22-2010	Amend	2-1-2011	330-112-0070	12-15-2010	Adopt	1-1-2011
330-070-0021	12-22-2010	Amend	2-1-2011	330-112-0070(T)	12-15-2010	Repeal	1-1-2011
330-070-0022	12-22-2010	Amend	2-1-2011	330-112-0080	12-15-2010	Adopt	1-1-2011
330-070-0022(T)	12-22-2010	Repeal	2-1-2011	330-112-0080(T)	12-15-2010	Repeal	1-1-2011
330-070-0024	12-22-2010	Amend	2-1-2011	330-112-0090	12-15-2010	Adopt	1-1-2011
330-070-0025	12-22-2010	Amend	2-1-2011	330-112-0090(T)	12-15-2010	Repeal	1-1-2011
330-070-0026	12-22-2010	Amend	2-1-2011	330-112-0100	12-15-2010	Adopt	1-1-2011
330-070-0027	12-22-2010	Amend	2-1-2011	330-112-0100(T)	12-15-2010	Repeal	1-1-2011
330-070-0045	12-22-2010	Amend	2-1-2011	330-160-0015	2-22-2011	Amend	4-1-2011
330-070-0055	12-22-2010	Amend	2-1-2011	330-160-0015	3-4-2011	Amend	4-1-2011

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330-160-0020	3-4-2011	Amend	4-1-2011	333-002-0100	3-1-2011	Amend	4-1-2011
330-160-0025	3-4-2011	Amend	4-1-2011	333-002-0110	3-1-2011	Repeal	4-1-2011
330-160-0030	3-4-2011	Amend	4-1-2011	333-002-0120	3-1-2011	Amend	4-1-2011
330-160-0040	2-22-2011	Adopt	4-1-2011	333-002-0130	3-1-2011	Amend	4-1-2011
330-160-0040(T)	2-22-2011	Repeal	4-1-2011	333-002-0140	3-1-2011	Amend	4-1-2011
330-160-0050	3-4-2011	Adopt	4-1-2011	333-002-0150	3-1-2011	Amend	4-1-2011
331-010-0050	3-1-2011	Adopt(T)	4-1-2011	333-002-0160	3-1-2011	Amend	4-1-2011
331-010-0050	3-17-2011	Adopt(T)	5-1-2011	333-002-0170	3-1-2011	Amend	4-1-2011
331-010-0050(T)	3-17-2011	Suspend	5-1-2011	333-002-0180	3-1-2011	Amend	4-1-2011
331-020-0040	3-1-2011	Amend(T)	4-1-2011	333-002-0190	3-1-2011	Amend	4-1-2011
331-020-0040	3-17-2011	Amend(T)	5-1-2011	333-002-0200	3-1-2011	Amend	4-1-2011
331-020-0040(T)	3-17-2011	Suspend	5-1-2011	333-002-0210	3-1-2011	Amend	4-1-2011
331-565-0090	4-1-2011	Amend(T)	5-1-2011	333-002-0220	3-1-2011	Amend	4-1-2011
331-705-0071	5-10-2011	Adopt(T)	6-1-2011	333-002-0230	3-1-2011	Amend	4-1-2011
332-015-0000	1-1-2011	Amend	2-1-2011	333-005-0000	1-1-2011	Am. & Ren.	2-1-2011
332-015-0010	1-1-2011	Repeal	2-1-2011	333-005-0010	1-1-2011	Am. & Ren.	2-1-2011
332-015-0030	1-1-2011	Amend	2-1-2011	333-005-0020	1-1-2011	Am. & Ren.	2-1-2011
332-015-0040	1-1-2011	Amend	2-1-2011	333-005-0030	1-1-2011	Am. & Ren.	2-1-2011
332-015-0050	1-1-2011	Amend	2-1-2011	333-005-0040	1-1-2011	Am. & Ren.	2-1-2011
332-015-0060	1-1-2011	Repeal	2-1-2011	333-005-0050	1-1-2011	Am. & Ren.	2-1-2011
332-015-0065	1-1-2011	Repeal	2-1-2011	333-005-0060	1-1-2011	Am. & Ren.	2-1-2011
332-015-0070	1-1-2011	Amend	2-1-2011	333-008-0020	12-28-2010	Amend	2-1-2011
332-015-0070	4-4-2011	Amend(T)	5-1-2011	333-008-0020(T)	12-28-2010	Repeal	2-1-2011
332-015-0080	1-1-2011	Adopt	2-1-2011	333-008-0040	12-28-2010	Amend	2-1-2011
332-020-0000	1-1-2011	Amend	2-1-2011	333-008-0045	12-28-2010	Adopt	2-1-2011
332-020-0010	1-1-2011	Amend	2-1-2011	333-012-0250	3-29-2011	Am. & Ren.	5-1-2011
332-020-0015	1-1-2011	Amend	2-1-2011	333-064-0040	4-21-2011	Amend	6-1-2011
332-020-0017	1-1-2011	Adopt	2-1-2011	333-064-0070	4-21-2011	Repeal	6-1-2011
332-020-0020	1-1-2011	Amend	2-1-2011	333-076-0101	12-15-2010	Amend	1-1-2011
332-020-0020(T)	1-1-2011	Repeal	2-1-2011	333-076-0106	12-15-2010	Amend	1-1-2011
332-025-0020	1-1-2011	Amend	2-1-2011	333-076-0108	12-15-2010	Amend	1-1-2011
332-025-0020	4-4-2011	Amend(T)	5-1-2011	333-076-0109	12-15-2010	Amend	1-1-2011
332-025-0021	1-1-2011	Amend	2-1-2011	333-076-0111	12-15-2010	Amend	1-1-2011
332-025-0021	4-4-2011	Amend(T)	5-1-2011	333-076-0114	12-15-2010	Amend	1-1-2011
332-025-0022	1-1-2011	Amend	2-1-2011	333-076-0115	12-15-2010	Amend	1-1-2011
332-025-0022	4-4-2011	Amend(T)	5-1-2011	333-076-0125	12-15-2010	Amend	1-1-2011
332-025-0030	1-1-2011	Amend	2-1-2011	333-076-0130	12-15-2010	Amend	1-1-2011
332-025-0040	1-1-2011	Amend	2-1-2011	333-076-0135	12-15-2010	Amend	1-1-2011
332-025-0040	4-4-2011	Amend(T)	5-1-2011	333-076-0140	12-15-2010	Amend	1-1-2011
332-025-0050	1-1-2011	Amend	2-1-2011	333-076-0145	12-15-2010	Amend	1-1-2011
332-025-0060	1-1-2011	Amend	2-1-2011	333-076-0155	12-15-2010	Amend	1-1-2011
332-025-0070	1-1-2011	Adopt	2-1-2011	333-076-0160	12-15-2010	Amend	1-1-2011
332-025-0080	1-1-2011	Adopt	2-1-2011	333-076-0165	12-15-2010	Amend	1-1-2011
332-025-0100	1-1-2011	Adopt	2-1-2011	333-076-0170	12-15-2010	Amend	1-1-2011
332-030-0000	1-1-2011	Amend	2-1-2011	333-076-0175	12-15-2010	Amend	1-1-2011
333-002-0000	3-1-2011	Amend	4-1-2011	333-076-0180	12-15-2010	Amend	1-1-2011
333-002-0010	3-1-2011	Amend	4-1-2011	333-076-0190	12-15-2010	Amend	1-1-2011
333-002-0020	3-1-2011	Amend	4-1-2011	333-076-0250	12-15-2010	Adopt	1-1-2011
333-002-0030	3-1-2011	Amend	4-1-2011	333-076-0255	12-15-2010	Adopt	1-1-2011
333-002-0035	3-1-2011	Amend	4-1-2011	333-076-0260	12-15-2010	Adopt	1-1-2011
333-002-0040	3-1-2011	Amend	4-1-2011	333-076-0265	12-15-2010	Adopt	1-1-2011
333-002-0050	3-1-2011	Amend	4-1-2011	333-076-0270	12-15-2010	Adopt	1-1-2011
333-002-0060	3-1-2011	Amend	4-1-2011	333-255-0070	1-6-2011	Amend	2-1-2011
333-002-0070	3-1-2011	Amend	4-1-2011	333-255-0070(T)	1-6-2011	Repeal	2-1-2011
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333-255-0073	1-6-2011	Amend	2-1-2011	340-016-0210	12-20-2010	Amend	2-1-2011
333-265-0050	1-6-2011	Amend	2-1-2011	340-041-0033	12-21-2010	Amend	2-1-2011
333-265-0090	1-6-2011	Amend	2-1-2011	340-045-0100	3-15-2011	Amend(T)	4-1-2011
333-265-0090(T)	1-6-2011	Repeal	2-1-2011	340-141-0010	12-23-2010	Amend	2-1-2011
333-265-0105	1-6-2011	Amend	2-1-2011	340-143-0001	3-17-2011	Amend	5-1-2011
333-265-0105(T)	1-6-2011	Repeal	2-1-2011	340-143-0005	3-17-2011	Amend	5-1-2011
333-265-0110	1-6-2011	Amend	2-1-2011	340-143-0010	3-17-2011	Amend	5-1-2011
333-500-0005	12-15-2010	Amend	1-1-2011	340-143-0020	3-17-2011	Amend	5-1-2011
333-500-0010	12-15-2010	Amend	1-1-2011	340-143-0030	3-17-2011	Adopt	5-1-2011
333-500-0020	12-15-2010	Amend	1-1-2011	340-143-0040	3-17-2011	Adopt	5-1-2011
333-500-0025	12-15-2010	Amend	1-1-2011	340-143-0050	3-17-2011	Adopt	5-1-2011
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333-500-0031	12-15-2010	Adopt	1-1-2011	340-200-0020	5-1-2011	Amend	6-1-2011
333-500-0034	12-15-2010	Amend	1-1-2011	340-200-0025	5-1-2011	Amend	6-1-2011
333-500-0040	12-15-2010	Amend	1-1-2011	340-200-0040	12-10-2010	Amend	1-1-2011
333-500-0065	12-15-2010	Amend	1-1-2011	340-200-0040	2-24-2011	Amend	4-1-2011
333-501-0010	12-15-2010	Amend	1-1-2011	340-200-0040	3-15-2011	Amend	4-1-2011
333-501-0015	12-15-2010	Amend	1-1-2011	340-200-0040	5-1-2011	Amend	6-1-2011
333-501-0035	12-15-2010	Amend	1-1-2011	340-202-0010	5-1-2011	Amend	6-1-2011
333-501-0040	12-15-2010	Amend	1-1-2011	340-202-0060	5-1-2011	Amend	6-1-2011
333-501-0045	12-15-2010	Amend	1-1-2011	340-202-0210	5-1-2011	Amend	6-1-2011
333-501-0055	12-15-2010	Amend	1-1-2011	340-215-0060	5-1-2011	Amend	6-1-2011
333-501-0060	12-15-2010	Adopt	1-1-2011	340-216-0020	2-24-2011	Amend	4-1-2011
333-505-0005	12-15-2010	Amend	1-1-2011	340-216-0020	5-1-2011	Amend	6-1-2011
333-505-0020	12-15-2010	Amend	1-1-2011	340-216-0025	5-1-2011	Amend	6-1-2011
333-505-0030	12-15-2010	Amend	1-1-2011	340-216-0040	5-1-2011	Amend	6-1-2011
333-505-0033	12-15-2010	Amend	1-1-2011	340-216-0052	5-1-2011	Amend	6-1-2011
333-505-0050	12-15-2010	Amend	1-1-2011	340-216-0054	5-1-2011	Amend	6-1-2011
334-001-0012	1-1-2011	Amend	2-1-2011	340-216-0056	5-1-2011	Amend	6-1-2011
334-001-0012	4-21-2011	Amend	6-1-2011	340-216-0060	2-24-2011	Amend	4-1-2011
334-001-0055	1-1-2011	Amend	2-1-2011	340-216-0060	5-1-2011	Amend	6-1-2011
334-001-0055	4-21-2011	Amend	6-1-2011	340-216-0064	2-24-2011	Amend	4-1-2011
334-010-0033	1-1-2011	Amend	2-1-2011	340-216-0064	5-1-2011	Amend	6-1-2011
334-010-0033	4-21-2011	Amend	6-1-2011	340-216-0066	5-1-2011	Amend	6-1-2011
335-001-0009	2-1-2011	Amend	3-1-2011	340-216-0070	5-1-2011	Amend	6-1-2011
335-060-0005	2-1-2011	Amend	3-1-2011	340-216-0090	5-1-2011	Amend	6-1-2011
335-060-0010	2-1-2011	Amend	3-1-2011	340-220-0030	12-20-2010	Amend	2-1-2011
335-060-0030	2-1-2011	Amend	3-1-2011	340-220-0040	12-20-2010	Amend	2-1-2011
335-070-0020	2-1-2011	Amend	3-1-2011	340-220-0050	12-20-2010	Amend	2-1-2011
335-070-0055	2-1-2011	Amend	3-1-2011	340-222-0042	5-1-2011	Amend	6-1-2011
335-070-0085	2-1-2011	Amend	3-1-2011	340-222-0045	5-1-2011	Amend	6-1-2011
335-095-0030	2-1-2011	Amend	3-1-2011	340-223-0010	12-10-2010	Amend	1-1-2011
335-095-0040	2-1-2011	Amend	3-1-2011	340-223-0020	12-10-2010	Amend	1-1-2011
335-095-0055	2-1-2011	Repeal	3-1-2011	340-223-0030	12-10-2010	Amend	1-1-2011
338-005-0030	3-1-2011	Amend(T)	4-1-2011	340-223-0040	12-10-2010	Amend	1-1-2011
338-005-0030	3-4-2011	Amend(T)	4-1-2011	340-223-0050	12-10-2010	Amend	1-1-2011
340-012-0054	3-15-2011	Amend	4-1-2011	340-223-0060	12-10-2010	Adopt	1-1-2011
340-012-0140	3-15-2011	Amend	4-1-2011	340-223-0070	12-10-2010	Adopt	1-1-2011
340-016-0080	12-20-2010	Amend	2-1-2011	340-223-0080	12-10-2010	Adopt	1-1-2011
340-016-0088	12-20-2010	Adopt	2-1-2011	340-224-0010	5-1-2011	Amend	6-1-2011
340-016-0100	12-20-2010	Repeal	2-1-2011	340-224-0050	5-1-2011	Amend	6-1-2011
340-016-0110	12-20-2010	Repeal	2-1-2011	340-224-0060	5-1-2011	Amend	6-1-2011
340-016-0120	12-20-2010	Repeal	2-1-2011	340-224-0070	5-1-2011	Amend	6-1-2011
340-016-0130	12-20-2010	Repeal	2-1-2011	340-225-0020	5-1-2011	Amend	6-1-2011
340-016-0140	12-20-2010	Repeal	2-1-2011	340-225-0030	5-1-2011	Amend	6-1-2011

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340-225-0050	5-1-2011	Amend	6-1-2011	350-030-0025	5-1-2011	Amend	5-1-2011
340-225-0060	5-1-2011	Amend	6-1-2011	350-030-0030	5-1-2011	Amend	5-1-2011
340-225-0090	5-1-2011	Amend	6-1-2011	350-030-0060	5-1-2011	Amend	5-1-2011
340-228-0300	5-1-2011	Amend	6-1-2011	350-030-0080	5-1-2011	Amend	5-1-2011
340-230-0030	2-24-2011	Amend	4-1-2011	350-040-0010	5-1-2011	Amend	5-1-2011
340-230-0300	2-24-2011	Amend	4-1-2011	350-040-0020	5-1-2011	Amend	5-1-2011
340-230-0400	2-24-2011	Repeal	4-1-2011	350-040-0050	5-1-2011	Amend	5-1-2011
340-230-0410	2-24-2011	Repeal	4-1-2011	350-040-0055	5-1-2011	Adopt	5-1-2011
340-238-0040	2-24-2011	Amend	4-1-2011	350-040-0060	5-1-2011	Amend	5-1-2011
340-238-0060	2-24-2011	Amend	4-1-2011	350-040-0065	5-1-2011	Amend	5-1-2011
340-242-0500	2-24-2011	Amend	4-1-2011	350-040-0070	5-1-2011	Amend	5-1-2011
340-244-0030	2-24-2011	Amend	4-1-2011	350-040-0080	5-1-2011	Amend	5-1-2011
340-244-0220	2-24-2011	Amend	4-1-2011	350-050-0020	5-1-2011	Amend	5-1-2011
340-244-0234	2-24-2011	Amend	4-1-2011	350-050-0035	5-1-2011	Amend	5-1-2011
340-244-0236	2-24-2011	Amend	4-1-2011	350-050-0040	5-1-2011	Amend	5-1-2011
340-244-0238	2-24-2011	Amend	4-1-2011	350-050-0045	5-1-2011	Amend	5-1-2011
340-244-0242	2-24-2011	Amend	4-1-2011	350-050-0060	5-1-2011	Amend	5-1-2011
340-244-0244	2-24-2011	Amend	4-1-2011	350-050-0070	5-1-2011	Amend	5-1-2011
340-244-0248	2-24-2011	Amend	4-1-2011	350-050-0080	5-1-2011	Amend	5-1-2011
340-246-0030	5-1-2011	Amend	6-1-2011	350-050-0085	5-1-2011	Amend	5-1-2011
340-257-0030	4-29-2011	Amend	6-1-2011	350-050-0090	5-1-2011	Amend	5-1-2011
340-257-0050	4-29-2011	Amend	6-1-2011	350-050-0100	5-1-2011	Amend	5-1-2011
340-257-0060	4-29-2011	Amend	6-1-2011	350-060-0040	5-1-2011	Amend	5-1-2011
340-257-0070	4-29-2011	Amend	6-1-2011	350-060-0042	5-1-2011	Amend	5-1-2011
340-257-0090	4-29-2011	Amend	6-1-2011	350-060-0045	5-1-2011	Amend	5-1-2011
340-257-0110	4-29-2011	Amend	6-1-2011	350-060-0047	5-1-2011	Adopt	5-1-2011
340-257-0120	4-29-2011	Amend	6-1-2011	350-060-0050	5-1-2011	Amend	5-1-2011
340-257-0140	4-29-2011	Amend	6-1-2011	350-060-0055	5-1-2011	Amend	5-1-2011
340-262-0010	3-15-2011	Repeal	4-1-2011	350-060-0060	5-1-2011	Amend	5-1-2011
340-262-0020	3-15-2011	Repeal	4-1-2011	350-060-0070	5-1-2011	Amend	5-1-2011
340-262-0030	3-15-2011	Repeal	4-1-2011	350-060-0080	5-1-2011	Amend	5-1-2011
340-262-0040	3-15-2011	Repeal	4-1-2011	350-060-0100	5-1-2011	Amend	5-1-2011
340-262-0050	3-15-2011	Repeal	4-1-2011	350-060-0110	5-1-2011	Amend	5-1-2011
340-262-0100	3-15-2011	Repeal	4-1-2011	350-060-0120	5-1-2011	Amend	5-1-2011
340-262-0110	3-15-2011	Repeal	4-1-2011	350-060-0130	5-1-2011	Amend	5-1-2011
340-262-0120	3-15-2011	Repeal	4-1-2011	350-060-0160	5-1-2011	Amend	5-1-2011
340-262-0130	3-15-2011	Repeal	4-1-2011	350-060-0170	5-1-2011	Amend	5-1-2011
340-262-0200	3-15-2011	Repeal	4-1-2011	350-060-0190	5-1-2011	Amend	5-1-2011
340-262-0210	3-15-2011	Repeal	4-1-2011	350-060-0200	5-1-2011	Amend	5-1-2011
340-262-0220	3-15-2011	Repeal	4-1-2011	350-060-0205	5-1-2011	Amend	5-1-2011
340-262-0230	3-15-2011	Repeal	4-1-2011	350-060-0210	5-1-2011	Amend	5-1-2011
340-262-0240	3-15-2011	Repeal	4-1-2011	350-070-0040	5-1-2011	Amend	5-1-2011
340-262-0250	3-15-2011	Repeal	4-1-2011	350-070-0042	5-1-2011	Amend	5-1-2011
340-262-0300	3-15-2011	Repeal	4-1-2011	350-070-0045	5-1-2011	Amend	5-1-2011
340-262-0310	3-15-2011	Repeal	4-1-2011	350-070-0046	5-1-2011	Adopt	5-1-2011
340-262-0320	3-15-2011	Repeal	4-1-2011	350-070-0050	5-1-2011	Amend	5-1-2011
340-262-0330	3-15-2011	Repeal	4-1-2011	350-070-0070	5-1-2011	Amend	5-1-2011
340-262-0400	3-15-2011	Adopt	4-1-2011	350-070-0080	5-1-2011	Amend	5-1-2011
340-262-0450	3-15-2011	Adopt	4-1-2011	350-070-0090	5-1-2011	Amend	5-1-2011
340-262-0500	3-15-2011	Adopt	4-1-2011	350-070-0120	5-1-2011	Amend	5-1-2011
340-262-0600	3-15-2011	Adopt	4-1-2011	350-070-0170	5-1-2011	Amend	5-1-2011
340-262-0700	3-15-2011	Adopt	4-1-2011	350-070-0200	5-1-2011	Amend	5-1-2011
340-262-0800	3-15-2011	Adopt	4-1-2011	350-070-0210	5-1-2011	Amend	5-1-2011
340-262-0900	3-15-2011	Adopt	4-1-2011	350-070-0220	5-1-2011	Amend	5-1-2011
350-030-0015	5-1-2011	Amend	5-1-2011	350-070-0225	5-1-2011	Amend	5-1-2011

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350-081-0020	5-1-2011	Amend	5-1-2011	410-050-0511	2-1-2011	Renumber	3-1-2011
350-081-0082	5-1-2011	Amend	5-1-2011	410-050-0521	2-1-2011	Renumber	3-1-2011
350-081-0540	5-1-2011	Amend	5-1-2011	410-050-0531	2-1-2011	Renumber	3-1-2011
350-081-0560	5-1-2011	Amend	5-1-2011	410-050-0541	2-1-2011	Renumber	3-1-2011
350-081-0570	5-1-2011	Amend	5-1-2011	410-050-0551	2-1-2011	Renumber	3-1-2011
350-081-0580	5-1-2011	Amend	5-1-2011	410-050-0561	2-1-2011	Renumber	3-1-2011
350-081-0590	5-1-2011	Amend	5-1-2011	410-050-0591	2-1-2011	Renumber	3-1-2011
350-120-0025	5-1-2011	Repeal	5-1-2011	410-050-0601	2-1-2011	Renumber	3-1-2011
350-120-0030	5-1-2011	Repeal	5-1-2011	410-120-0030	1-1-2011	Amend	2-1-2011
350-120-0040	5-1-2011	Repeal	5-1-2011	410-120-1195	1-1-2011	Amend	2-1-2011
350-120-0050	5-1-2011	Amend	5-1-2011	410-120-1200	1-1-2011	Amend	2-1-2011
407-007-0200	4-15-2011	Amend(T)	5-1-2011	410-120-1230	1-1-2011	Amend	2-1-2011
407-007-0210	4-15-2011	Amend(T)	5-1-2011	410-120-1280	1-1-2011	Amend	2-1-2011
407-007-0220	4-15-2011	Amend(T)	5-1-2011	410-120-1295	1-1-2011	Amend	2-1-2011
407-007-0230	4-15-2011	Amend(T)	5-1-2011	410-120-1340	1-1-2011	Amend	2-1-2011
407-007-0240	4-15-2011	Amend(T)	5-1-2011	410-121-0000	1-1-2011	Amend	2-1-2011
407-007-0250	4-15-2011	Amend(T)	5-1-2011	410-121-0030	1-1-2011	Amend	2-1-2011
407-007-0290	4-15-2011	Amend(T)	5-1-2011	410-121-0030	3-1-2011	Amend(T)	4-1-2011
407-007-0300	4-15-2011	Amend(T)	5-1-2011	410-121-0040	1-1-2011	Amend	2-1-2011
407-007-0315	4-15-2011	Amend(T)	5-1-2011	410-121-0149	1-1-2011	Amend	2-1-2011
407-007-0320	4-15-2011	Amend(T)	5-1-2011	410-121-0155	1-1-2011	Amend	2-1-2011
407-007-0325	4-15-2011	Amend(T)	5-1-2011	410-121-0160	1-1-2011	Amend	2-1-2011
407-007-0330	4-15-2011	Amend(T)	5-1-2011	410-121-0320	1-1-2011	Repeal	2-1-2011
407-007-0340	4-15-2011	Amend(T)	5-1-2011	410-121-4000	5-5-2011	Adopt	6-1-2011
407-007-0350	4-15-2011	Amend(T)	5-1-2011	410-121-4005	5-5-2011	Adopt	6-1-2011
407-020-0000	2-1-2011	Am. & Ren.	3-1-2011	410-121-4010	5-5-2011	Adopt	6-1-2011
407-020-0005	2-1-2011	Am. & Ren.	3-1-2011	410-121-4015	5-5-2011	Adopt	6-1-2011
407-020-0010	2-1-2011	Am. & Ren.	3-1-2011	410-121-4020	5-5-2011	Adopt	6-1-2011
407-020-0015	2-1-2011	Am. & Ren.	3-1-2011	410-122-0080	3-25-2011	Amend	5-1-2011
407-045-0260	1-1-2011	Amend	2-1-2011	410-122-0080(T)	3-25-2011	Repeal	5-1-2011
407-045-0260(T)	1-1-2011	Repeal	2-1-2011	410-122-0180	3-25-2011	Amend	5-1-2011
407-045-0820	1-1-2011	Amend	2-1-2011	410-122-0180(T)	3-25-2011	Repeal	5-1-2011
407-045-0820(T)	1-1-2011	Repeal	2-1-2011	410-123-1000	1-1-2011	Amend	1-1-2011
409-015-0010	3-1-2011	Amend	3-1-2011	410-123-1085	1-1-2011	Repeal	1-1-2011
409-030-0000	3-1-2011	Renumber	3-1-2011	410-123-1220	1-1-2011	Amend	1-1-2011
409-030-0005	3-1-2011	Renumber	3-1-2011	410-123-1260	1-1-2011	Amend	1-1-2011
409-030-0010	3-1-2011	Renumber	3-1-2011	410-123-1540	1-1-2011	Amend	1-1-2011
409-030-0020	3-1-2011	Renumber	3-1-2011	410-125-0047	1-1-2011	Amend	1-1-2011
409-030-0030	3-1-2011	Renumber	3-1-2011	410-125-0080	1-1-2011	Amend	1-1-2011
409-030-0050	3-1-2011	Renumber	3-1-2011	410-125-0085	1-1-2011	Amend	1-1-2011
409-030-0065	3-1-2011	Renumber	3-1-2011	410-125-0100	1-1-2011	Repeal	1-1-2011
409-110-0000	2-1-2011	Amend	3-1-2011	410-125-0140	1-1-2011	Amend	1-1-2011
409-110-0005	2-1-2011	Amend	3-1-2011	410-125-0360	1-1-2011	Amend	1-1-2011
409-110-0010	2-1-2011	Amend	3-1-2011	410-125-0410	1-1-2011	Amend	1-1-2011
409-110-0015	2-1-2011	Amend	3-1-2011	410-125-0450	1-1-2011	Adopt	1-1-2011
409-110-0020	2-1-2011	Amend	3-1-2011	410-125-1020	1-1-2011	Amend	1-1-2011
410-050-0401	2-1-2011	Renumber	3-1-2011	410-125-2000	1-1-2011	Amend	1-1-2011
410-050-0411	2-1-2011	Renumber	3-1-2011	410-125-2020	1-1-2011	Amend	1-1-2011
410-050-0421	2-1-2011	Renumber	3-1-2011	410-125-2030	1-1-2011	Amend	1-1-2011
410-050-0431	2-1-2011	Renumber	3-1-2011	410-127-0020	1-1-2011	Amend	1-1-2011
410-050-0451	2-1-2011	Renumber	3-1-2011	410-127-0060	1-1-2011	Amend	1-1-2011
410-050-0461	2-1-2011	Renumber	3-1-2011	410-127-0065	1-1-2011	Amend	1-1-2011
410-050-0471	2-1-2011	Renumber	3-1-2011	410-127-0080	1-1-2011	Amend	1-1-2011
410-050-0481	2-1-2011	Renumber	3-1-2011	410-129-0220	3-25-2011	Amend	5-1-2011
410-050-0491	2-1-2011	Renumber	3-1-2011	410-129-0220(T)	3-25-2011	Repeal	5-1-2011

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410-130-0255	1-1-2011	Amend	1-1-2011	410-141-0080	1-1-2011	Amend	2-1-2011
410-130-0580	1-1-2011	Amend	1-1-2011	410-141-0120	1-1-2011	Amend	2-1-2011
410-130-0585	1-1-2011	Amend	1-1-2011	410-141-0220	1-1-2011	Amend	2-1-2011
410-130-0587	1-1-2011	Amend	1-1-2011	410-141-0260	1-1-2011	Amend	2-1-2011
410-136-0030	1-1-2011	Amend	1-1-2011	410-141-0263	1-1-2011	Amend	2-1-2011
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	4-1-2011	Amend	5-1-2011
410-136-0080	1-1-2011	Amend	1-1-2011	410-141-0520(T)	1-1-2011	Repeal	2-1-2011
410-136-0140	1-1-2011	Amend	1-1-2011	410-142-0020	1-1-2011	Amend	1-1-2011
410-136-0160	1-1-2011	Amend	1-1-2011	410-142-0100	1-1-2011	Amend	1-1-2011
410-136-0180	1-1-2011	Amend	1-1-2011	410-142-0110	1-1-2011	Adopt	1-1-2011
410-136-0200	1-1-2011	Amend	1-1-2011	410-142-0200	1-1-2011	Amend	1-1-2011
410-136-0220	1-1-2011	Amend	1-1-2011	410-142-0225	1-1-2011	Amend	1-1-2011
410-136-0240	1-1-2011	Amend	1-1-2011	410-142-0240	1-1-2011	Amend	1-1-2011
410-136-0300	1-1-2011	Amend	1-1-2011	410-142-0280	1-1-2011	Amend	1-1-2011
410-136-0320	1-1-2011	Amend	1-1-2011	410-142-0300	1-1-2011	Amend	1-1-2011
410-136-0340	1-1-2011	Amend	1-1-2011	410-146-0021	1-1-2011	Amend	1-1-2011
410-136-0350	1-1-2011	Amend	1-1-2011	410-146-0085	1-1-2011	Amend	1-1-2011
410-136-0440	1-1-2011	Amend	1-1-2011	410-146-0086	1-1-2011	Amend	1-1-2011
410-136-0800	1-1-2011	Amend	1-1-2011	410-146-0120	1-1-2011	Amend	1-1-2011
410-136-0820	1-1-2011	Amend	1-1-2011	410-146-0140	1-1-2011	Repeal	1-1-2011
410-136-0840	1-1-2011	Amend	1-1-2011	410-147-0120	1-1-2011	Amend	1-1-2011
410-136-0860	1-1-2011	Amend	1-1-2011	410-147-0140	1-1-2011	Amend	1-1-2011
410-138-0000	1-1-2011	Amend	2-1-2011	410-147-0200	1-1-2011	Amend	1-1-2011
410-138-0005	1-1-2011	Amend	2-1-2011	410-147-0220	1-1-2011	Repeal	1-1-2011
410-138-0007	1-1-2011	Amend	2-1-2011	410-147-0320	1-1-2011	Amend	1-1-2011
410-138-0009	1-1-2011	Amend	2-1-2011	410-147-0480	1-1-2011	Amend	1-1-2011
410-138-0020	1-1-2011	Amend	2-1-2011	410-147-0610	1-1-2011	Repeal	1-1-2011
410-138-0040	1-1-2011	Amend	2-1-2011	411-031-0020	12-1-2010	Amend	1-1-2011
410-138-0060	1-1-2011	Amend	2-1-2011	411-031-0020(T)	12-1-2010	Repeal	1-1-2011
410-138-0080	1-1-2011	Amend	2-1-2011	411-031-0040	12-1-2010	Amend	1-1-2011
410-138-0300	1-1-2011	Repeal	2-1-2011	411-031-0040(T)	12-1-2010	Repeal	1-1-2011
410-138-0360	1-1-2011	Repeal	2-1-2011	411-034-0010	1-1-2011	Amend	2-1-2011
410-138-0380	1-1-2011	Repeal	2-1-2011	411-034-0020	1-1-2011	Amend	2-1-2011
410-138-0390	1-1-2011	Amend	2-1-2011	411-050-0412	1-1-2011	Amend	2-1-2011
410-138-0400	1-1-2011	Repeal	2-1-2011	411-050-0499	1-1-2011	Repeal	2-1-2011
410-138-0420	1-1-2011	Amend	2-1-2011	411-054-0005	4-1-2011	Amend	5-1-2011
410-138-0440	1-1-2011	Repeal	2-1-2011	411-054-0005(T)	4-1-2011	Repeal	5-1-2011
410-138-0460	1-1-2011	Repeal	2-1-2011	411-054-0012	4-1-2011	Amend	5-1-2011
410-138-0500	1-1-2011	Repeal	2-1-2011	411-054-0012(T)	4-1-2011	Repeal	5-1-2011
410-138-0540	1-1-2011	Repeal	2-1-2011	411-067-0000	4-1-2011	Amend	5-1-2011
410-138-0560	1-1-2011	Repeal	2-1-2011	411-067-0010	4-1-2011	Amend	5-1-2011
410-138-0600	1-1-2011	Repeal	2-1-2011	411-067-0020	4-1-2011	Amend	5-1-2011
410-138-0640	1-1-2011	Repeal	2-1-2011	411-067-0030	4-1-2011	Repeal	5-1-2011
410-138-0660	1-1-2011	Repeal	2-1-2011	411-067-0050	4-1-2011	Amend	5-1-2011
410-138-0680	1-1-2011	Repeal	2-1-2011	411-067-0055	4-1-2011	Amend	5-1-2011
410-138-0700	1-1-2011	Repeal	2-1-2011	411-067-0060	4-1-2011	Amend	5-1-2011
410-138-0710	1-1-2011	Repeal	2-1-2011	411-067-0065	4-1-2011	Adopt	5-1-2011
410-138-0740	1-1-2011	Repeal	2-1-2011	411-067-0070	4-1-2011	Amend	5-1-2011
410-138-0760	1-1-2011	Repeal	2-1-2011	411-067-0080	4-1-2011	Amend	5-1-2011
410-138-0780	1-1-2011	Repeal	2-1-2011	411-067-0083	4-1-2011	Amend	5-1-2011
410-141-0000	1-1-2011	Amend	2-1-2011	411-067-0086	4-1-2011	Adopt	5-1-2011

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411-067-0087	4-1-2011	Repeal	5-1-2011	413-010-0081	12-29-2010	Amend	2-1-2011
411-067-0090	4-1-2011	Amend	5-1-2011	413-010-0082	12-29-2010	Amend	2-1-2011
411-067-0100	4-1-2011	Amend	5-1-2011	413-010-0083	12-29-2010	Amend	2-1-2011
411-200-0010	5-1-2011	Amend	6-1-2011	413-010-0084	12-29-2010	Repeal	2-1-2011
411-200-0020	5-1-2011	Amend	6-1-2011	413-010-0085	12-29-2010	Amend	2-1-2011
411-200-0030	5-1-2011	Amend	6-1-2011	413-010-0086	12-29-2010	Repeal	2-1-2011
411-200-0035	5-1-2011	Adopt	6-1-2011	413-010-0360	12-29-2010	Repeal	2-1-2011
411-200-0040	5-1-2011	Amend	6-1-2011	413-010-0370	12-29-2010	Repeal	2-1-2011
411-304-0035	1-1-2011	Amend	2-1-2011	413-010-0380	12-29-2010	Repeal	2-1-2011
411-308-0020	2-1-2011	Amend(T)	3-1-2011	413-040-0240	1-4-2011	Amend	2-1-2011
411-308-0050	2-1-2011	Amend(T)	3-1-2011	413-040-0240(T)	1-4-2011	Repeal	2-1-2011
411-308-0060	2-1-2011	Amend(T)	3-1-2011	413-070-0500	12-29-2010	Amend	2-1-2011
411-308-0070	2-1-2011	Amend(T)	3-1-2011	413-070-0505	12-29-2010	Amend	2-1-2011
411-308-0080	2-1-2011	Amend(T)	3-1-2011	413-070-0510	12-29-2010	Amend	2-1-2011
411-308-0090	2-1-2011	Amend(T)	3-1-2011	413-070-0514	12-29-2010	Adopt	2-1-2011
411-308-0120	2-1-2011	Amend(T)	3-1-2011	413-070-0514	3-22-2011	Amend(T)	5-1-2011
411-320-0020	1-1-2011	Amend	2-1-2011	413-070-0515	12-29-2010	Am. & Ren.	2-1-2011
411-320-0020(T)	1-1-2011	Repeal	2-1-2011	413-070-0516	12-29-2010	Adopt	2-1-2011
411-320-0030	12-1-2010	Amend(T)	1-1-2011	413-070-0516	3-22-2011	Amend(T)	5-1-2011
411-320-0045	12-1-2010	Amend(T)	1-1-2011	413-070-0517	12-29-2010	Repeal	2-1-2011
411-320-0080	1-1-2011	Amend	2-1-2011	413-070-0518	12-29-2010	Adopt	2-1-2011
411-320-0080(T)	1-1-2011	Repeal	2-1-2011	413-070-0518	3-22-2011	Amend(T)	5-1-2011
411-320-0130	12-1-2010	Amend(T)	1-1-2011	413-070-0519	12-29-2010	Adopt	2-1-2011
411-320-0170	12-1-2010	Amend(T)	1-1-2011	413-070-0519	3-22-2011	Amend(T)	5-1-2011
411-320-0175	1-1-2011	Amend	2-1-2011	413-070-0520	12-29-2010	Amend	2-1-2011
411-320-0175(T)	1-1-2011	Repeal	2-1-2011	413-070-0524	12-29-2010	Amend	2-1-2011
411-328-0570	2-7-2011	Amend(T)	3-1-2011	413-070-0532	12-29-2010	Amend	2-1-2011
411-328-0810	2-7-2011	Amend(T)	3-1-2011	413-070-0536	12-29-2010	Amend	2-1-2011
411-335-0030	2-7-2011	Amend(T)	3-1-2011	413-070-0540	12-29-2010	Amend	2-1-2011
411-335-0050	2-7-2011	Amend(T)	3-1-2011	413-070-0548	12-29-2010	Am. & Ren.	2-1-2011
411-335-0380	2-7-2011	Amend(T)	3-1-2011	413-070-0550	12-29-2010	Amend	2-1-2011
411-340-0030	11-17-2010	Amend(T)	1-1-2011	413-070-0550	3-22-2011	Amend(T)	5-1-2011
411-340-0030	5-5-2011	Amend	6-1-2011	413-070-0552	12-29-2010	Amend	2-1-2011
411-340-0030(T)	5-5-2011	Repeal	6-1-2011	413-070-0556	12-29-2010	Amend	2-1-2011
411-340-0040	11-17-2010	Amend(T)	1-1-2011	413-070-0565	12-29-2010	Amend	2-1-2011
411-340-0040	5-5-2011	Amend	6-1-2011	413-070-0570	12-28-2010	Adopt	2-1-2011
411-340-0040(T)	5-5-2011	Repeal	6-1-2011	413-070-0572	12-28-2010	Adopt	2-1-2011
411-340-0060	11-17-2010	Amend(T)	1-1-2011	413-070-0574	12-28-2010	Adopt	2-1-2011
411-340-0060(T)	5-5-2011	Repeal	6-1-2011	413-070-0600	12-29-2010	Amend	2-1-2011
411-340-0120	11-17-2010	Amend(T)	1-1-2011	413-070-0620	12-29-2010	Amend	2-1-2011
411-340-0120	5-5-2011	Amend	6-1-2011	413-070-0625	12-29-2010	Amend	2-1-2011
411-340-0120(T)	5-5-2011	Repeal	6-1-2011	413-070-0630	12-29-2010	Amend	2-1-2011
411-345-0030	2-7-2011	Amend(T)	3-1-2011	413-070-0640	12-29-2010	Amend	2-1-2011
411-345-0100	2-7-2011	Amend(T)	3-1-2011	413-070-0645	12-29-2010	Amend	2-1-2011
411-345-0260	2-7-2011	Amend(T)	3-1-2011	413-070-0651	12-29-2010	Adopt(T)	2-1-2011
411-346-0110	2-10-2011	Amend(T)	3-1-2011	413-070-0655	12-29-2010	Adopt(T)	2-1-2011
411-346-0150	2-10-2011	Amend(T)	3-1-2011	413-070-0660	12-29-2010	Adopt(T)	2-1-2011
411-346-0160	2-10-2011	Amend(T)	3-1-2011	413-070-0665	12-29-2010	Adopt(T)	2-1-2011
411-346-0165	2-10-2011	Amend(T)	3-1-2011	413-070-0670	12-29-2010	Adopt(T)	2-1-2011
411-346-0190	2-10-2011	Amend(T)	3-1-2011	413-110-0100	12-29-2010	Amend	2-1-2011
411-346-0200	2-10-2011	Amend(T)	3-1-2011	413-110-0110	12-29-2010	Amend	2-1-2011
411-346-0220	2-10-2011	Amend(T)	3-1-2011	413-110-0120	12-29-2010	Repeal	2-1-2011
411-360-0070	1-1-2011	Amend	2-1-2011	413-110-0130	12-29-2010	Amend	2-1-2011
411-360-0070(T)	1-1-2011	Repeal	2-1-2011	413-110-0132	12-29-2010	Adopt	2-1-2011
413-010-0055	12-29-2010	Amend	2-1-2011	413-110-0132	4-4-2011	Amend(T)	5-1-2011
413-010-0055(T)	12-29-2010	Repeal	2-1-2011	413-110-0140	12-29-2010	Repeal	2-1-2011



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413-110-0150	12-29-2010	Adopt	2-1-2011	413-120-0720	12-29-2010	Adopt	2-1-2011
413-120-0000	12-29-2010	Amend	2-1-2011	413-120-0730	12-29-2010	Adopt	2-1-2011
413-120-0010	12-29-2010	Amend	2-1-2011	413-120-0730	3-22-2011	Amend(T)	5-1-2011
413-120-0015	12-29-2010	Repeal	2-1-2011	413-120-0750	12-29-2010	Adopt	2-1-2011
413-120-0020	12-29-2010	Amend	2-1-2011	413-120-0750	3-22-2011	Amend(T)	5-1-2011
413-120-0020	3-22-2011	Amend(T)	5-1-2011	413-120-0760	12-29-2010	Adopt	2-1-2011
413-120-0021	12-29-2010	Adopt	2-1-2011	413-120-0760	3-22-2011	Amend(T)	5-1-2011
413-120-0021	3-22-2011	Amend(T)	5-1-2011	413-120-0800	12-29-2010	Amend	2-1-2011
413-120-0025	12-29-2010	Adopt	2-1-2011	413-120-0810	12-29-2010	Amend	2-1-2011
413-120-0030	12-29-2010	Repeal	2-1-2011	413-120-0820	12-29-2010	Repeal	2-1-2011
413-120-0033	12-29-2010	Am. & Ren.	2-1-2011	413-120-0830	12-29-2010	Amend	2-1-2011
413-120-0035	12-29-2010	Amend	2-1-2011	413-120-0840	12-29-2010	Adopt	2-1-2011
413-120-0035	3-22-2011	Amend(T)	5-1-2011	413-120-0850	12-29-2010	Adopt	2-1-2011
413-120-0040	12-29-2010	Repeal	2-1-2011	413-120-0860	12-29-2010	Adopt	2-1-2011
413-120-0045	12-29-2010	Am. & Ren.	2-1-2011	413-120-0870	12-29-2010	Adopt	2-1-2011
413-120-0053	12-29-2010	Adopt	2-1-2011	413-120-0900	12-28-2010	Adopt	2-1-2011
413-120-0057	12-29-2010	Adopt	2-1-2011	413-120-0905	12-28-2010	Adopt	2-1-2011
413-120-0060	12-29-2010	Amend	2-1-2011	413-120-0910	12-28-2010	Adopt	2-1-2011
413-120-0060	3-22-2011	Amend(T)	5-1-2011	413-120-0920	12-28-2010	Adopt	2-1-2011
413-120-0075	12-29-2010	Am. & Ren.	2-1-2011	413-120-0925	12-28-2010	Adopt	2-1-2011
413-120-0080	12-29-2010	Repeal	2-1-2011	413-120-0930	12-28-2010	Adopt	2-1-2011
413-120-0190	12-29-2010	Amend	2-1-2011	413-120-0940	12-28-2010	Adopt	2-1-2011
413-120-0195	12-29-2010	Amend	2-1-2011	413-120-0945	12-28-2010	Adopt	2-1-2011
413-120-0200	12-29-2010	Repeal	2-1-2011	413-120-0950	12-28-2010	Adopt	2-1-2011
413-120-0210	12-29-2010	Repeal	2-1-2011	413-120-0960	12-28-2010	Adopt	2-1-2011
413-120-0220	12-29-2010	Amend	2-1-2011	413-120-0970	12-28-2010	Adopt	2-1-2011
413-120-0222	12-29-2010	Adopt	2-1-2011	413-130-0150	12-29-2010	Repeal	2-1-2011
413-120-0225	12-29-2010	Adopt	2-1-2011	413-130-0160	12-29-2010	Repeal	2-1-2011
413-120-0230	12-29-2010	Repeal	2-1-2011	413-130-0170	12-29-2010	Repeal	2-1-2011
413-120-0240	12-29-2010	Amend	2-1-2011	413-130-0180	12-29-2010	Repeal	2-1-2011
413-120-0243	12-29-2010	Adopt	2-1-2011	414-205-0055	1-1-2011	Amend	2-1-2011
413-120-0246	12-29-2010	Adopt	2-1-2011	414-205-0100	1-1-2011	Amend	2-1-2011
413-120-0250	12-29-2010	Repeal	2-1-2011	414-205-0110	1-1-2011	Amend	2-1-2011
413-120-0255	12-29-2010	Repeal	2-1-2011	414-205-0170	1-1-2011	Amend	2-1-2011
413-120-0260	12-29-2010	Repeal	2-1-2011	414-300-0005	1-1-2011	Amend	2-1-2011
413-120-0265	12-29-2010	Repeal	2-1-2011	414-300-0010	1-1-2011	Amend	2-1-2011
413-120-0270	12-29-2010	Repeal	2-1-2011	414-300-0015	1-1-2011	Amend	2-1-2011
413-120-0275	12-29-2010	Repeal	2-1-2011	414-300-0030	1-1-2011	Amend	2-1-2011
413-120-0280	12-29-2010	Repeal	2-1-2011	414-300-0040	1-1-2011	Amend	2-1-2011
413-120-0285	12-29-2010	Repeal	2-1-2011	414-300-0110	1-1-2011	Amend(T)	2-1-2011
413-120-0290	12-29-2010	Repeal	2-1-2011	414-300-0120	1-1-2011	Amend	2-1-2011
413-120-0300	12-29-2010	Repeal	2-1-2011	414-300-0250	1-1-2011	Amend	2-1-2011
413-120-0310	12-29-2010	Repeal	2-1-2011	414-300-0415	1-1-2011	Amend	2-1-2011
413-120-0500	12-29-2010	Amend	2-1-2011	414-350-0010	1-1-2011	Amend	2-1-2011
413-120-0510	12-29-2010	Amend	2-1-2011	414-350-0020	1-1-2011	Amend	2-1-2011
413-120-0520	12-29-2010	Repeal	2-1-2011	414-350-0030	1-1-2011	Amend	2-1-2011
413-120-0521	12-29-2010	Adopt	2-1-2011	414-350-0050	1-1-2011	Amend	2-1-2011
413-120-0530	12-29-2010	Repeal	2-1-2011	414-350-0060	1-1-2011	Amend	2-1-2011
413-120-0540	12-29-2010	Repeal	2-1-2011	414-350-0090	1-1-2011	Amend	2-1-2011
413-120-0541	12-29-2010	Adopt	2-1-2011	414-350-0100	1-1-2011	Amend	2-1-2011
413-120-0550	12-29-2010	Am. & Ren.	2-1-2011	414-350-0110	1-1-2011	Amend(T)	2-1-2011
413-120-0570	12-29-2010	Adopt	2-1-2011	414-350-0115	1-1-2011	Amend	2-1-2011
413-120-0590	12-29-2010	Adopt	2-1-2011	414-350-0200	1-1-2011	Amend	2-1-2011
413-120-0595	12-29-2010	Adopt	2-1-2011	414-350-0210	1-1-2011	Amend	2-1-2011
413-120-0700	12-29-2010	Adopt	2-1-2011	414-350-0375	1-1-2011	Amend	2-1-2011
413-120-0710	12-29-2010	Adopt	2-1-2011	414-350-0380	1-1-2011	Amend	2-1-2011

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414-425-0010	5-1-2011	Amend(T)	6-1-2011	415-054-0520	3-9-2011	Adopt	4-1-2011
414-425-0030	5-1-2011	Amend(T)	6-1-2011	415-054-0520(T)	3-9-2011	Repeal	4-1-2011
414-450-0010	5-1-2011	Amend(T)	6-1-2011	415-054-0530	3-9-2011	Adopt	4-1-2011
414-450-0030	5-1-2011	Amend(T)	6-1-2011	415-054-0540	3-9-2011	Adopt	4-1-2011
415-054-0005	3-9-2011	Repeal	4-1-2011	415-054-0550	3-9-2011	Adopt	4-1-2011
415-054-0010	3-9-2011	Repeal	4-1-2011	415-054-0560	3-9-2011	Adopt	4-1-2011
415-054-0015	3-9-2011	Repeal	4-1-2011	415-054-0570	3-9-2011	Adopt	4-1-2011
415-054-0017	3-9-2011	Repeal	4-1-2011	415-054-0580	3-9-2011	Adopt	4-1-2011
415-054-0018	3-9-2011	Repeal	4-1-2011	415-065-0055	2-11-2011	Amend(T)	3-1-2011
415-054-0045	3-9-2011	Repeal	4-1-2011	436-009-0003	4-1-2011	Amend	4-1-2011
415-054-0050	3-9-2011	Repeal	4-1-2011	436-009-0004	4-1-2011	Amend	4-1-2011
415-054-0055	3-9-2011	Repeal	4-1-2011	436-009-0005	4-1-2011	Amend	4-1-2011
415-054-0060	3-9-2011	Repeal	4-1-2011	436-009-0010	4-1-2011	Amend	4-1-2011
415-054-0070	3-9-2011	Repeal	4-1-2011	436-009-0020	4-1-2011	Amend	4-1-2011
415-054-0075	3-9-2011	Repeal	4-1-2011	436-009-0030	4-1-2011	Amend	4-1-2011
415-054-0076	3-9-2011	Repeal	4-1-2011	436-009-0040	4-1-2011	Amend	4-1-2011
415-054-0080	3-9-2011	Repeal	4-1-2011	436-009-0050	4-1-2011	Amend	4-1-2011
415-054-0090	3-9-2011	Repeal	4-1-2011	436-009-0070	4-1-2011	Amend	4-1-2011
415-054-0100	3-9-2011	Repeal	4-1-2011	436-009-0080	4-1-2011	Amend	4-1-2011
415-054-0200	3-9-2011	Repeal	4-1-2011	436-009-0090	4-1-2011	Amend	4-1-2011
415-054-0210	3-9-2011	Repeal	4-1-2011	436-009-0114	4-1-2011	Adopt	4-1-2011
415-054-0220	3-9-2011	Repeal	4-1-2011	436-009-0120	4-1-2011	Amend	4-1-2011
415-054-0230	3-9-2011	Repeal	4-1-2011	436-009-0125	4-1-2011	Amend	4-1-2011
415-054-0240	3-9-2011	Repeal	4-1-2011	436-009-0155	4-1-2011	Amend	4-1-2011
415-054-0300	3-9-2011	Repeal	4-1-2011	436-009-0160	4-1-2011	Amend	4-1-2011
415-054-0310	3-9-2011	Repeal	4-1-2011	436-009-0180	4-1-2011	Amend	4-1-2011
415-054-0320	3-9-2011	Repeal	4-1-2011	436-009-0199	4-1-2011	Am. & Ren.	4-1-2011
415-054-0330	3-9-2011	Repeal	4-1-2011	436-009-0200	4-1-2012	Adopt	4-1-2011
415-054-0340	3-9-2011	Repeal	4-1-2011	436-009-0205	4-1-2012	Adopt	4-1-2011
415-054-0350	3-9-2011	Repeal	4-1-2011	436-009-0206	4-1-2012	Adopt	4-1-2011
415-054-0360	3-9-2011	Repeal	4-1-2011	436-009-0207	4-1-2012	Adopt	4-1-2011
415-054-0370	3-9-2011	Repeal	4-1-2011	436-009-0210	4-1-2012	Adopt	4-1-2011
415-054-0400	3-9-2011	Adopt	4-1-2011	436-009-0215	4-1-2012	Adopt	4-1-2011
415-054-0400(T)	3-9-2011	Repeal	4-1-2011	436-009-0220	4-1-2012	Adopt	4-1-2011
415-054-0410	3-9-2011	Adopt	4-1-2011	436-009-0225	4-1-2012	Adopt	4-1-2011
415-054-0410(T)	3-9-2011	Repeal	4-1-2011	436-009-0230	4-1-2012	Adopt	4-1-2011
415-054-0420	3-9-2011	Adopt	4-1-2011	436-009-0235	4-1-2012	Adopt	4-1-2011
415-054-0420(T)	3-9-2011	Repeal	4-1-2011	436-009-0240	4-1-2012	Adopt	4-1-2011
415-054-0430	3-9-2011	Adopt	4-1-2011	436-009-0245	4-1-2012	Adopt	4-1-2011
415-054-0430(T)	3-9-2011	Repeal	4-1-2011	436-009-0250	4-1-2012	Adopt	4-1-2011
415-054-0440	3-9-2011	Adopt	4-1-2011	436-009-0255	4-1-2012	Adopt	4-1-2011
415-054-0440(T)	3-9-2011	Repeal	4-1-2011	436-009-0260	4-1-2012	Adopt	4-1-2011
415-054-0450	3-9-2011	Adopt	4-1-2011	436-009-0265	4-1-2012	Adopt	4-1-2011
415-054-0450(T)	3-9-2011	Repeal	4-1-2011	436-009-0270	4-1-2012	Adopt	4-1-2011
415-054-0460	3-9-2011	Adopt	4-1-2011	436-009-0275	4-1-2012	Adopt	4-1-2011
415-054-0460(T)	3-9-2011	Repeal	4-1-2011	436-009-0280	4-1-2012	Adopt	4-1-2011
415-054-0470	3-9-2011	Adopt	4-1-2011	436-009-0285	4-1-2012	Adopt	4-1-2011
415-054-0470(T)	3-9-2011	Repeal	4-1-2011	436-009-0290	4-1-2012	Adopt	4-1-2011
415-054-0480	3-9-2011	Adopt	4-1-2011	436-010-0230	4-1-2011	Amend	4-1-2011
415-054-0480(T)	3-9-2011	Repeal	4-1-2011	436-010-0265	4-1-2011	Amend	4-1-2011
415-054-0490	3-9-2011	Adopt	4-1-2011	436-010-0290	4-1-2011	Amend	4-1-2011
415-054-0490(T)	3-9-2011	Repeal	4-1-2011	436-060-0095	4-1-2011	Amend	4-1-2011
415-054-0500	3-9-2011	Adopt	4-1-2011	437-003-0001	2-9-2011	Amend	3-1-2011
415-054-0500(T)	3-9-2011	Repeal	4-1-2011	437-003-1423	2-9-2011	Adopt	3-1-2011
415-054-0510	3-9-2011	Adopt	4-1-2011	437-003-3600	2-9-2011	Adopt	3-1-2011
415-054-0510(T)	3-9-2011	Repeal	4-1-2011	441-035-0010	2-15-2011	Amend	3-1-2011

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441-674-0005	1-1-2011	Adopt	2-1-2011	441-930-0330	1-1-2011	Amend	2-1-2011
441-674-0005	1-20-2011	Amend	3-1-2011	441-930-0340	1-1-2011	Repeal	2-1-2011
441-674-0005(T)	1-1-2011	Repeal	2-1-2011	441-930-0350	1-1-2011	Amend	2-1-2011
441-674-0100	1-1-2011	Adopt	2-1-2011	441-930-0360	1-1-2011	Amend	2-1-2011
441-674-0100(T)	1-1-2011	Repeal	2-1-2011	442-005-0010	2-25-2011	Amend	4-1-2011
441-674-0120	1-1-2011	Adopt	2-1-2011	442-005-0030	1-5-2011	Amend(T)	2-1-2011
441-674-0120(T)	1-1-2011	Repeal	2-1-2011	442-005-0030	4-22-2011	Amend	6-1-2011
441-674-0130	1-1-2011	Adopt	2-1-2011	442-005-0030(T)	1-5-2011	Suspend	2-1-2011
441-674-0130(T)	1-1-2011	Repeal	2-1-2011	442-005-0050	2-25-2011	Amend	4-1-2011
441-674-0140	1-1-2011	Adopt	2-1-2011	442-005-0060	2-25-2011	Amend	4-1-2011
441-674-0140(T)	1-1-2011	Repeal	2-1-2011	442-005-0070	4-22-2011	Amend	6-1-2011
441-674-0210	1-1-2011	Adopt	2-1-2011	442-005-0100	2-25-2011	Amend	4-1-2011
441-674-0210(T)	1-1-2011	Repeal	2-1-2011	442-005-0240	4-22-2011	Amend	6-1-2011
441-674-0220	1-1-2011	Adopt	2-1-2011	442-010-0010	1-18-2011	Amend	3-1-2011
441-674-0220(T)	1-1-2011	Repeal	2-1-2011	442-010-0010	3-8-2011	Amend	4-1-2011
441-674-0230	1-1-2011	Adopt	2-1-2011	442-010-0020	1-18-2011	Amend	3-1-2011
441-674-0230(T)	1-1-2011	Repeal	2-1-2011	442-010-0020	3-8-2011	Amend	4-1-2011
441-674-0240	1-1-2011	Adopt	2-1-2011	442-010-0030	1-18-2011	Amend	3-1-2011
441-674-0240(T)	1-1-2011	Repeal	2-1-2011	442-010-0030	3-8-2011	Amend	4-1-2011
441-674-0250	1-1-2011	Adopt	2-1-2011	442-010-0040	1-18-2011	Amend	3-1-2011
441-674-0250(T)	1-1-2011	Repeal	2-1-2011	442-010-0040	3-8-2011	Amend	4-1-2011
441-674-0310	1-1-2011	Adopt	2-1-2011	442-010-0050	3-8-2011	Amend	4-1-2011
441-674-0310(T)	1-1-2011	Repeal	2-1-2011	442-010-0055	1-18-2011	Amend	3-1-2011
441-674-0510	1-20-2011	Adopt	3-1-2011	442-010-0055	3-8-2011	Amend	4-1-2011
441-674-0520	1-20-2011	Adopt	3-1-2011	442-010-0060	1-18-2011	Amend	3-1-2011
441-674-0910	1-1-2011	Adopt	2-1-2011	442-010-0060	3-8-2011	Amend	4-1-2011
441-674-0910(T)	1-1-2011	Repeal	2-1-2011	442-010-0065	3-8-2011	Adopt	4-1-2011
441-674-0915	1-1-2011	Adopt	2-1-2011	442-010-0070	1-18-2011	Amend	3-1-2011
441-674-0915(T)	1-1-2011	Repeal	2-1-2011	442-010-0070	3-8-2011	Amend	4-1-2011
441-674-0920	1-1-2011	Adopt	2-1-2011	442-010-0075	3-8-2011	Adopt	4-1-2011
441-674-0920(T)	1-1-2011	Repeal	2-1-2011	442-010-0080	1-18-2011	Amend	3-1-2011
441-710-0035	12-1-2010	Amend	1-1-2011	442-010-0080	3-8-2011	Amend	4-1-2011
441-710-0071	12-1-2010	Adopt	1-1-2011	442-010-0085	3-8-2011	Adopt	4-1-2011
441-710-0500	3-8-2011	Amend	4-1-2011	442-010-0090	3-8-2011	Amend	4-1-2011
441-930-0010	1-1-2011	Amend	2-1-2011	442-010-0100	1-18-2011	Amend	3-1-2011
441-930-0030	1-1-2011	Amend	2-1-2011	442-010-0100	3-8-2011	Amend	4-1-2011
441-930-0035	1-1-2011	Adopt	2-1-2011	442-010-0110	1-18-2011	Amend	3-1-2011
441-930-0045	1-1-2011	Adopt	2-1-2011	442-010-0110	3-8-2011	Amend	4-1-2011
441-930-0065	1-1-2011	Adopt	2-1-2011	442-010-0120	1-18-2011	Amend	3-1-2011
441-930-0068	1-1-2011	Adopt	2-1-2011	442-010-0120	3-8-2011	Amend	4-1-2011
441-930-0070	1-1-2011	Amend	2-1-2011	442-010-0130	1-18-2011	Amend	3-1-2011
441-930-0080	1-1-2011	Amend	2-1-2011	442-010-0130	3-8-2011	Amend	4-1-2011
441-930-0210	1-1-2011	Amend	2-1-2011	442-010-0140	1-18-2011	Amend	3-1-2011
441-930-0220	1-1-2011	Amend	2-1-2011	442-010-0140	3-8-2011	Amend	4-1-2011
441-930-0230	1-1-2011	Amend	2-1-2011	442-010-0150	1-18-2011	Amend	3-1-2011
441-930-0240	1-1-2011	Amend	2-1-2011	442-010-0150	3-8-2011	Amend	4-1-2011
441-930-0250	1-1-2011	Amend	2-1-2011	442-010-0160	1-18-2011	Amend	3-1-2011
441-930-0255	1-1-2011	Adopt	2-1-2011	442-010-0160	3-8-2011	Amend	4-1-2011
441-930-0260	1-1-2011	Amend	2-1-2011	442-010-0170	1-18-2011	Amend	3-1-2011
441-930-0267	1-1-2011	Adopt	2-1-2011	442-010-0170	3-8-2011	Amend	4-1-2011
441-930-0270	1-1-2011	Amend	2-1-2011	442-010-0180	1-18-2011	Amend	3-1-2011
441-930-0280	1-1-2011	Repeal	2-1-2011	442-010-0180	3-8-2011	Amend	4-1-2011
441-930-0290	1-1-2011	Amend	2-1-2011	442-010-0190	1-18-2011	Amend	3-1-2011
441-930-0300	1-1-2011	Amend	2-1-2011	442-010-0190	3-8-2011	Amend	4-1-2011
441-930-0310	1-1-2011	Amend	2-1-2011	442-010-0200	1-18-2011	Adopt	3-1-2011

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442-010-0210	1-18-2011	Adopt	3-1-2011	461-130-0328	1-1-2011	Amend	2-1-2011
442-010-0210	3-8-2011	Amend	4-1-2011	461-130-0330	1-1-2011	Amend	2-1-2011
442-010-0220	1-18-2011	Adopt	3-1-2011	461-130-0335	1-1-2011	Amend	2-1-2011
442-010-0220	3-8-2011	Amend	4-1-2011	461-135-0010	1-1-2011	Amend	2-1-2011
442-010-0230	1-18-2011	Adopt	3-1-2011	461-135-0095	4-1-2011	Amend	5-1-2011
442-010-0230	3-8-2011	Amend	4-1-2011	461-135-0095(T)	4-1-2011	Repeal	5-1-2011
442-010-0240	1-18-2011	Adopt	3-1-2011	461-135-0210	1-1-2011	Amend	2-1-2011
442-010-0240	3-8-2011	Amend	4-1-2011	461-135-0210(T)	1-1-2011	Repeal	2-1-2011
442-010-0250	1-18-2011	Adopt	3-1-2011	461-135-0400	1-1-2011	Amend	2-1-2011
442-010-0250	3-8-2011	Amend	4-1-2011	461-135-0400	2-16-2011	Amend(T)	4-1-2011
442-010-0260	1-18-2011	Adopt	3-1-2011	461-135-0400	3-22-2011	Amend(T)	5-1-2011
442-010-0260	3-8-2011	Amend	4-1-2011	461-135-0400(T)	1-1-2011	Repeal	2-1-2011
442-010-0270	1-18-2011	Adopt	3-1-2011	461-135-0400(T)	3-22-2011	Suspend	5-1-2011
442-010-0270	3-8-2011	Amend	4-1-2011	461-135-0780	1-1-2011	Amend	2-1-2011
442-010-0280	1-18-2011	Adopt	3-1-2011	461-135-0950	4-1-2011	Amend	5-1-2011
442-010-0280	3-8-2011	Amend	4-1-2011	461-135-1100	1-1-2011	Amend	2-1-2011
443-002-0070	1-26-2011	Amend	3-1-2011	461-135-1100(T)	1-1-2011	Repeal	2-1-2011
443-002-0190	1-26-2011	Amend	3-1-2011	461-135-1120	3-1-2011	Amend(T)	4-1-2011
459-005-0040	11-24-2010	Adopt	1-1-2011	461-135-1125	1-1-2011	Amend	2-1-2011
459-060-0020	11-24-2010	Amend	1-1-2011	461-135-1125(T)	1-1-2011	Repeal	2-1-2011
459-070-0100	2-2-2011	Amend	3-1-2011	461-135-1195	1-1-2011	Amend	2-1-2011
459-070-0110	2-2-2011	Amend	3-1-2011	461-135-1197	1-1-2011	Adopt	2-1-2011
461-001-0000	1-1-2011	Amend	2-1-2011	461-135-1250	1-1-2011	Amend	2-1-2011
461-025-0311	1-1-2011	Amend	2-1-2011	461-135-1250(T)	1-1-2011	Repeal	2-1-2011
461-025-0311(T)	1-1-2011	Repeal	2-1-2011	461-140-0110	4-1-2011	Amend	5-1-2011
461-101-0010	1-1-2011	Amend	2-1-2011	461-145-0140	1-1-2011	Amend(T)	2-1-2011
461-101-0010(T)	1-1-2011	Repeal	2-1-2011	461-145-0143	1-1-2011	Suspend	2-1-2011
461-110-0210	4-1-2011	Amend	5-1-2011	461-145-0220	1-1-2011	Amend(T)	2-1-2011
461-110-0310	4-1-2011	Amend	5-1-2011	461-145-0530	2-4-2011	Amend(T)	3-1-2011
461-110-0330	4-1-2011	Amend	5-1-2011	461-150-0055	1-1-2011	Amend	2-1-2011
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461-110-0400	4-1-2011	Amend	5-1-2011	461-150-0055(T)	2-4-2011	Suspend	3-1-2011
461-110-0410	4-1-2011	Amend	5-1-2011	461-150-0055(T)	4-1-2011	Repeal	5-1-2011
461-110-0430	4-1-2011	Amend	5-1-2011	461-155-0030	1-1-2011	Amend	2-1-2011
461-110-0530	4-1-2011	Amend	5-1-2011	461-155-0030	1-1-2011	Amend(T)	2-1-2011
461-110-0630	1-1-2011	Amend	2-1-2011	461-155-0030	4-1-2011	Amend	5-1-2011
461-110-0630	4-1-2011	Amend	5-1-2011	461-155-0030(T)	1-1-2011	Repeal	2-1-2011
461-110-0630(T)	1-1-2011	Repeal	2-1-2011	461-155-0030(T)	4-1-2011	Repeal	5-1-2011
461-110-0750	4-1-2011	Amend	5-1-2011	461-155-0035	1-1-2011	Amend	2-1-2011
461-115-0071	1-1-2011	Amend	2-1-2011	461-155-0035(T)	1-1-2011	Repeal	2-1-2011
461-115-0071(T)	1-1-2011	Repeal	2-1-2011	461-155-0180	1-1-2011	Amend	2-1-2011
461-115-0530	3-1-2011	Amend(T)	4-1-2011	461-155-0180	1-20-2011	Amend(T)	3-1-2011
461-115-0705	4-1-2011	Amend	5-1-2011	461-155-0180(T)	1-1-2011	Repeal	2-1-2011
461-115-0705(T)	4-1-2011	Repeal	5-1-2011	461-155-0225	1-1-2011	Amend	2-1-2011
461-120-0210	1-1-2011	Amend	2-1-2011	461-155-0225(T)	1-1-2011	Repeal	2-1-2011
461-120-0210	4-1-2011	Amend	5-1-2011	461-155-0235	1-20-2011	Amend	3-1-2011
461-130-0305	1-1-2011	Amend	2-1-2011	461-155-0290	3-1-2011	Amend(T)	4-1-2011
461-130-0310	1-1-2011	Amend	2-1-2011	461-155-0291	3-1-2011	Amend(T)	4-1-2011
461-130-0315	1-1-2011	Amend	2-1-2011	461-155-0295	3-1-2011	Amend(T)	4-1-2011
461-130-0320	1-1-2011	Repeal	2-1-2011	461-155-0320	1-1-2011	Amend	2-1-2011
461-130-0323	1-1-2011	Repeal	2-1-2011	461-155-0320(T)	1-1-2011	Repeal	2-1-2011
461-130-0325	1-1-2011	Repeal	2-1-2011	461-155-0528	1-1-2011	Adopt	2-1-2011

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461-155-0528(T)	1-1-2011	Repeal	2-1-2011	571-004-0050	2-7-2011	Amend	3-1-2011
461-155-0575	4-1-2011	Adopt(T)	5-1-2011	571-004-0055	2-7-2011	Amend	3-1-2011
461-155-0688	1-1-2011	Amend	2-1-2011	573-001-0075	12-8-2010	Amend	1-1-2011
461-155-0688(T)	1-1-2011	Repeal	2-1-2011	574-050-0005	2-2-2011	Amend	3-1-2011
461-155-0693	1-1-2011	Amend	2-1-2011	574-050-0005	5-2-2011	Amend	6-1-2011
461-155-0693	2-1-2011	Amend(T)	3-1-2011	575-080-0100	11-16-2010	Adopt	1-1-2011
461-155-0693(T)	1-1-2011	Repeal	2-1-2011	575-080-0110	11-16-2010	Adopt	1-1-2011
461-160-0015	1-1-2011	Amend(T)	2-1-2011	575-080-0120	11-16-2010	Adopt	1-1-2011
461-160-0015	4-1-2011	Amend	5-1-2011	575-080-0130	11-16-2010	Adopt	1-1-2011
461-160-0015(T)	4-1-2011	Repeal	5-1-2011	575-080-0135	11-16-2010	Adopt	1-1-2011
461-160-0400	4-1-2011	Amend	5-1-2011	575-080-0140	11-16-2010	Adopt	1-1-2011
461-160-0400(T)	4-1-2011	Repeal	5-1-2011	575-080-0145	11-16-2010	Adopt	1-1-2011
461-160-0410	1-1-2011	Amend	2-1-2011	580-040-0035	1-20-2011	Amend	3-1-2011
461-160-0430	1-1-2011	Amend	2-1-2011	581-001-0005	4-22-2011	Amend	6-1-2011
461-160-0430	1-1-2011	Amend(T)	2-1-2011	581-015-2030	4-22-2011	Amend	6-1-2011
461-160-0430	4-1-2011	Amend	5-1-2011	581-020-0345	2-1-2011	Amend	3-1-2011
461-160-0430(T)	1-1-2011	Repeal	2-1-2011	581-020-0350	12-17-2010	Repeal	2-1-2011
461-160-0430(T)	4-1-2011	Repeal	5-1-2011	581-022-0421	2-1-2011	Amend	3-1-2011
461-160-0530	1-1-2011	Repeal	2-1-2011	581-022-0617	12-17-2010	Adopt	2-1-2011
461-160-0700	1-1-2011	Amend	2-1-2011	581-045-0009	1-1-2011	Amend	2-1-2011
461-160-0700	1-1-2011	Amend(T)	2-1-2011	581-051-0305	2-1-2011	Amend	3-1-2011
461-160-0700	4-1-2011	Amend	5-1-2011	581-051-0306	2-1-2011	Amend	3-1-2011
461-160-0700(T)	1-1-2011	Repeal	2-1-2011	581-053-0002	3-17-2011	Amend	5-1-2011
461-160-0700(T)	4-1-2011	Repeal	5-1-2011	581-053-0006	3-17-2011	Amend	5-1-2011
461-170-0010	4-1-2011	Amend	5-1-2011	582-001-0010	3-1-2011	Amend(T)	3-1-2011
461-170-0010(T)	4-1-2011	Repeal	5-1-2011	582-030-0040	3-1-2011	Amend(T)	3-1-2011
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461-175-0010	1-1-2011	Amend	2-1-2011	582-050-0005	3-1-2011	Amend(T)	3-1-2011
461-175-0010(T)	1-1-2011	Repeal	2-1-2011	582-050-0010	3-1-2011	Amend(T)	3-1-2011
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461-175-0200(T)	1-1-2011	Repeal	2-1-2011	582-050-0060	3-1-2011	Amend(T)	3-1-2011
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461-175-0250(T)	1-1-2011	Repeal	2-1-2011	582-060-0020	3-1-2011	Amend(T)	3-1-2011
461-190-0211	1-1-2011	Amend(T)	2-1-2011	582-070-0010	3-1-2011	Amend(T)	3-1-2011
461-190-0211	4-1-2011	Amend	5-1-2011	582-070-0020	3-1-2011	Amend(T)	3-1-2011
461-190-0211(T)	4-1-2011	Repeal	5-1-2011	582-070-0025	3-1-2011	Amend(T)	3-1-2011
461-190-0416	2-14-2011	Amend(T)	3-1-2011	582-070-0030	3-1-2011	Amend(T)	3-1-2011
461-193-0560	1-1-2011	Amend	2-1-2011	582-070-0040	3-1-2011	Amend(T)	3-1-2011
461-193-0560(T)	1-1-2011	Repeal	2-1-2011	582-070-0042	3-1-2011	Amend(T)	3-1-2011
471-010-0111	12-13-2010	Adopt	1-1-2011	582-070-0043	3-1-2011	Amend(T)	3-1-2011
471-030-0037	3-1-2011	Amend(T)	4-1-2011	582-070-0044	3-1-2011	Amend(T)	3-1-2011
471-030-0038	3-1-2011	Amend(T)	4-1-2011	583-030-0010	11-16-2010	Amend	1-1-2011
471-030-0048	7-1-2011	Amend(T)	6-1-2011	583-030-0035	11-16-2010	Amend	1-1-2011
471-031-0140	12-13-2010	Amend	1-1-2011	583-050-0011	11-16-2010	Amend	1-1-2011
471-031-0141	12-13-2010	Amend	1-1-2011	583-050-0016	11-16-2010	Amend	1-1-2011
471-031-0200	12-13-2010	Amend	1-1-2011	584-010-0090	1-1-2011	Amend	2-1-2011
471-031-0225	12-13-2010	Repeal	1-1-2011	584-017-0200	1-1-2011	Amend	2-1-2011
471-031-0230	12-13-2010	Repeal	1-1-2011	584-017-0201	1-1-2011	Amend	2-1-2011
471-031-0235	12-13-2010	Adopt	1-1-2011	584-017-0300	1-1-2011	Amend	2-1-2011
471-040-0005	2-9-2011	Amend(T)	3-1-2011	584-017-0390	1-1-2011	Amend	2-1-2011
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571-004-0025	2-7-2011	Amend	3-1-2011	584-017-0500	1-26-2011	Adopt	3-1-2011
571-004-0030	2-7-2011	Amend	3-1-2011	584-017-0510	1-26-2011	Adopt	3-1-2011
571-004-0035	2-7-2011	Repeal	3-1-2011	584-017-0520	1-26-2011	Adopt	3-1-2011
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584-017-0551	1-26-2011	Adopt	3-1-2011	603-011-0264	1-6-2011	Amend	2-1-2011
584-017-0555	1-26-2011	Adopt	3-1-2011	603-011-0281	1-7-2011	Amend	2-1-2011
584-017-0560	1-26-2011	Adopt	3-1-2011	603-011-0340	1-6-2011	Amend	2-1-2011
584-017-0570	1-26-2011	Adopt	3-1-2011	603-011-0365	1-6-2011	Repeal	2-1-2011
584-017-0580	1-26-2011	Adopt	3-1-2011	603-027-0420	1-26-2011	Amend	3-1-2011
584-021-0120	3-15-2011	Amend	4-1-2011	603-042-0020	5-10-2011	Amend	6-1-2011
584-021-0165	1-1-2011	Amend	1-1-2011	603-052-0347	11-23-2010	Amend	1-1-2011
584-023-0005	1-1-2011	Amend	1-1-2011	603-052-1207	3-17-2011	Adopt(T)	5-1-2011
584-036-0055	1-1-2011	Amend	1-1-2011	603-052-1212	3-17-2011	Adopt(T)	5-1-2011
584-036-0105	3-15-2011	Amend	4-1-2011	603-052-1215	3-17-2011	Adopt(T)	5-1-2011
584-042-0002	1-1-2011	Repeal	2-1-2011	603-052-1230	12-17-2010	Amend	2-1-2011
584-042-0006	1-1-2011	Repeal	2-1-2011	603-052-1250	12-17-2010	Amend	2-1-2011
584-042-0009	1-1-2011	Repeal	2-1-2011	617-030-0010	4-5-2011	Amend	5-1-2011
584-042-0044	1-1-2011	Amend	1-1-2011	629-001-0015	1-7-2011	Amend(T)	2-1-2011
584-048-0065	1-1-2011	Am. & Ren.	2-1-2011	629-001-0015	3-15-2011	Amend	4-1-2011
584-060-0014	3-15-2011	Amend	4-1-2011	629-001-0015(T)	3-15-2011	Repeal	4-1-2011
584-060-0062	1-28-2011	Amend	3-1-2011	629-001-0020	1-7-2011	Amend(T)	2-1-2011
584-060-0162	1-1-2011	Amend	1-1-2011	629-001-0020	3-15-2011	Amend	4-1-2011
584-060-0171	1-1-2011	Amend	1-1-2011	629-001-0020(T)	3-15-2011	Repeal	4-1-2011
584-060-0181	1-1-2011	Amend	1-1-2011	629-041-0035	1-7-2011	Amend(T)	2-1-2011
584-060-0181	3-15-2011	Amend	4-1-2011	629-041-0035	3-15-2011	Amend	4-1-2011
584-060-0182	1-1-2011	Amend	1-1-2011	629-041-0035(T)	3-15-2011	Repeal	4-1-2011
584-060-0190	1-1-2011	Amend	1-1-2011	635-003-0003	5-1-2011	Amend	6-1-2011
584-060-0200	1-1-2011	Amend	1-1-2011	635-004-0005	3-22-2011	Amend	5-1-2011
584-060-0210	1-1-2011	Amend	2-1-2011	635-004-0009	3-22-2011	Amend	5-1-2011
584-060-0220	1-1-2011	Amend	2-1-2011	635-004-0017	3-4-2011	Amend(T)	4-1-2011
584-060-0220	3-15-2011	Amend	4-1-2011	635-004-0018	1-1-2011	Amend	1-1-2011
584-065-0125	3-15-2011	Adopt	4-1-2011	635-004-0019	12-7-2010	Amend(T)	1-1-2011
584-070-0001	1-1-2011	Amend	1-1-2011	635-004-0019	1-1-2011	Amend	1-1-2011
584-070-0111	1-1-2011	Amend	1-1-2011	635-004-0019	1-1-2011	Amend(T)	2-1-2011
584-070-0111	3-15-2011	Amend	4-1-2011	635-004-0019	1-11-2011	Amend(T)	2-1-2011
584-070-0112	1-1-2011	Amend	1-1-2011	635-004-0019	3-3-2011	Amend(T)	4-1-2011
584-070-0132	1-1-2011	Amend	1-1-2011	635-004-0019	5-13-2011	Amend(T)	6-1-2011
584-070-0205	1-1-2011	Adopt	2-1-2011	635-004-0019(T)	12-7-2010	Suspend	1-1-2011
584-070-0211	1-1-2011	Amend	2-1-2011	635-004-0019(T)	1-1-2011	Suspend	2-1-2011
584-070-0221	1-1-2011	Amend	2-1-2011	635-004-0019(T)	1-11-2011	Suspend	2-1-2011
584-070-0271	1-1-2011	Amend	2-1-2011	635-004-0019(T)	3-3-2011	Suspend	4-1-2011
584-070-0310	1-1-2011	Amend	1-1-2011	635-004-0019(T)	5-13-2011	Suspend	6-1-2011
584-070-0401	1-1-2011	Adopt	2-1-2011	635-004-0025	1-1-2011	Amend	1-1-2011
584-070-0411	1-1-2011	Adopt	2-1-2011	635-004-0035	1-1-2011	Amend	1-1-2011
584-070-0411	4-14-2011	Amend	5-1-2011	635-004-0070	1-1-2011	Amend	1-1-2011
584-070-0421	1-1-2011	Adopt	2-1-2011	635-004-0075	1-1-2011	Amend	1-1-2011
584-070-0421	4-14-2011	Amend	5-1-2011	635-005-0045	12-10-2010	Amend(T)	1-1-2011
584-070-0431	1-1-2011	Adopt	2-1-2011	635-005-0055	3-15-2011	Amend(T)	4-1-2011
584-070-0431	4-14-2011	Amend	5-1-2011	635-005-0190	1-1-2011	Amend	1-1-2011
584-080-0031	1-1-2011	Amend	1-1-2011	635-006-0215	1-1-2011	Amend	1-1-2011
584-080-0151	3-15-2011	Amend	4-1-2011	635-006-0232	1-10-2011	Amend	2-1-2011
584-080-0152	3-15-2011	Amend	4-1-2011	635-006-1075	11-23-2010	Amend(T)	1-1-2011
584-080-0153	1-1-2011	Amend	1-1-2011	635-006-1095	12-15-2010	Amend(T)	1-1-2011
584-080-0161	1-1-2011	Amend	1-1-2011	635-007-0545	12-6-2010	Amend	1-1-2011
584-080-0171	1-1-2011	Amend	1-1-2011	635-007-0825	12-6-2010	Repeal	1-1-2011
589-002-0100	4-20-2011	Amend	6-1-2011	635-007-0830	12-6-2010	Repeal	1-1-2011
603-011-0250	1-7-2011	Amend	2-1-2011	635-008-0055	1-1-2011	Amend	2-1-2011
603-011-0255	1-6-2011	Amend	2-1-2011	635-008-0148	1-14-2011	Amend	2-1-2011
603-011-0256	1-7-2011	Amend	2-1-2011	635-008-0149	1-14-2011	Amend	2-1-2011

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635-008-0153	1-1-2011	Amend	2-1-2011	635-023-0134	1-1-2011	Amend	2-1-2011
635-010-0157	1-1-2011	Amend	2-1-2011	635-023-0134	4-23-2011	Amend(T)	5-1-2011
635-011-0100	1-1-2011	Amend	2-1-2011	635-039-0080	1-1-2011	Amend	1-1-2011
635-013-0003	1-1-2011	Amend	2-1-2011	635-039-0080	3-22-2011	Amend	5-1-2011
635-013-0003	5-1-2011	Amend	6-1-2011	635-039-0085	3-22-2011	Amend	5-1-2011
635-013-0004	1-1-2011	Amend	2-1-2011	635-039-0090	1-1-2011	Amend	1-1-2011
635-014-0080	1-1-2011	Amend	2-1-2011	635-039-0090	3-22-2011	Amend	5-1-2011
635-014-0090	1-1-2011	Amend	2-1-2011	635-041-0005	5-5-2011	Amend(T)	6-1-2011
635-016-0080	1-1-2011	Amend	2-1-2011	635-041-0015	5-5-2011	Amend(T)	6-1-2011
635-016-0090	1-1-2011	Amend	2-1-2011	635-041-0020	5-5-2011	Amend(T)	6-1-2011
635-016-0090	5-1-2011	Amend(T)	6-1-2011	635-041-0025	5-5-2011	Amend(T)	6-1-2011
635-017-0080	1-1-2011	Amend	2-1-2011	635-041-0045	3-21-2011	Amend	5-1-2011
635-017-0090	1-1-2011	Amend	2-1-2011	635-041-0045	5-5-2011	Amend(T)	6-1-2011
635-017-0095	1-1-2011	Amend	2-1-2011	635-041-0045	5-10-2011	Amend(T)	6-1-2011
635-017-0095	1-1-2011	Amend(T)	2-1-2011	635-041-0045(T)	5-10-2011	Suspend	6-1-2011
635-017-0095	2-17-2011	Amend(T)	3-1-2011	635-041-0065	2-1-2011	Amend(T)	3-1-2011
635-017-0095	3-17-2011	Amend(T)	5-1-2011	635-041-0065	2-10-2011	Amend(T)	3-1-2011
635-017-0095	3-21-2011	Amend	5-1-2011	635-041-0065	3-21-2011	Amend	5-1-2011
635-017-0095(T)	2-17-2011	Suspend	3-1-2011	635-041-0065(T)	2-10-2011	Suspend	3-1-2011
635-017-0095(T)	3-17-2011	Suspend	5-1-2011	635-041-0076	5-10-2011	Amend(T)	6-1-2011
635-018-0080	1-1-2011	Amend	2-1-2011	635-042-0010	3-21-2011	Amend	5-1-2011
635-018-0090	1-1-2011	Amend	2-1-2011	635-042-0022	3-29-2011	Amend(T)	5-1-2011
635-018-0090	1-1-2011	Amend(T)	2-1-2011	635-042-0022	4-6-2011	Amend(T)	5-1-2011
635-018-0090	4-15-2011	Amend(T)	4-1-2011	635-042-0022	5-12-2011	Amend(T)	6-1-2011
635-018-0090	4-15-2011	Amend(T)	4-1-2011	635-042-0032	3-21-2011	Amend	5-1-2011
635-018-0090	5-10-2011	Amend(T)	6-1-2011	635-042-0060	3-21-2011	Amend	5-1-2011
635-018-0090(T)	4-15-2011	Suspend	4-1-2011	635-042-0110	5-10-2011	Amend(T)	6-1-2011
635-018-0090(T)	4-15-2011	Suspend	4-1-2011	635-042-0115	5-10-2011	Amend(T)	6-1-2011
635-018-0090(T)	5-10-2011	Suspend	6-1-2011	635-042-0130	12-1-2010	Amend(T)	1-1-2011
635-019-0080	1-1-2011	Amend	2-1-2011	635-042-0130	3-21-2011	Amend	5-1-2011
635-019-0090	1-1-2011	Amend	2-1-2011	635-042-0135	1-15-2011	Amend(T)	2-1-2011
635-021-0080	1-1-2011	Amend	2-1-2011	635-042-0145	2-13-2011	Amend(T)	3-1-2011
635-021-0090	1-1-2011	Amend	2-1-2011	635-042-0145	3-21-2011	Amend	5-1-2011
635-023-0080	1-1-2011	Amend	2-1-2011	635-042-0145	4-21-2011	Amend(T)	6-1-2011
635-023-0090	1-1-2011	Amend	2-1-2011	635-042-0145	4-28-2011	Amend(T)	6-1-2011
635-023-0095	1-1-2011	Amend	2-1-2011	635-042-0145	5-12-2011	Amend(T)	6-1-2011
635-023-0095	1-1-2011	Amend(T)	2-1-2011	635-042-0145(T)	4-21-2011	Suspend	6-1-2011
635-023-0095	2-11-2011	Amend(T)	3-1-2011	635-042-0145(T)	4-28-2011	Suspend	6-1-2011
635-023-0095	3-21-2011	Amend	5-1-2011	635-042-0145(T)	5-12-2011	Suspend	6-1-2011
635-023-0095	4-10-2011	Amend(T)	5-1-2011	635-042-0160	2-13-2011	Amend(T)	3-1-2011
635-023-0095(T)	2-11-2011	Suspend	3-1-2011	635-042-0160	3-21-2011	Amend	5-1-2011
635-023-0095(T)	4-10-2011	Suspend	5-1-2011	635-042-0160	4-21-2011	Amend(T)	6-1-2011
635-023-0125	1-1-2011	Amend	2-1-2011	635-042-0160	5-11-2011	Amend(T)	6-1-2011
635-023-0125	2-14-2011	Amend(T)	3-1-2011	635-042-0160(T)	4-21-2011	Suspend	6-1-2011
635-023-0125	4-8-2011	Amend(T)	5-1-2011	635-042-0160(T)	5-11-2011	Suspend	6-1-2011
635-023-0125	4-16-2011	Amend(T)	5-1-2011	635-042-0170	2-13-2011	Amend(T)	3-1-2011
635-023-0125	4-21-2011	Amend(T)	6-1-2011	635-042-0170	3-21-2011	Amend	5-1-2011
635-023-0125	5-7-2011	Amend(T)	6-1-2011	635-042-0170	4-21-2011	Amend(T)	6-1-2011
635-023-0125	5-15-2011	Amend(T)	6-1-2011	635-042-0170	5-11-2011	Amend(T)	6-1-2011
635-023-0125(T)	4-8-2011	Suspend	5-1-2011	635-042-0170(T)	4-21-2011	Suspend	6-1-2011
635-023-0125(T)	4-16-2011	Suspend	5-1-2011	635-042-0170(T)	5-11-2011	Suspend	6-1-2011
635-023-0125(T)	4-21-2011	Suspend	6-1-2011	635-042-0180	2-13-2011	Amend(T)	3-1-2011
635-023-0125(T)	5-7-2011	Suspend	6-1-2011	635-042-0180	3-21-2011	Amend	5-1-2011
635-023-0125(T)	5-15-2011	Suspend	6-1-2011	635-042-0180	4-21-2011	Amend(T)	6-1-2011
635-023-0128	1-1-2011	Amend	2-1-2011	635-042-0180(T)	4-21-2011	Suspend	6-1-2011

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635-043-0100	1-28-2011	Amend(T)	3-1-2011	635-140-0025	5-4-2011	Repeal	6-1-2011
635-044-0000	2-15-2011	Amend	3-1-2011	635-160-0000	5-4-2011	Amend	6-1-2011
635-044-0060	2-15-2011	Amend	3-1-2011	635-160-0030	5-4-2011	Repeal	6-1-2011
635-045-0002	1-1-2011	Amend	2-1-2011	635-170-0015	12-29-2010	Amend(T)	2-1-2011
635-049-0025	1-1-2011	Amend(T)	2-1-2011	635-170-0015	5-4-2011	Repeal	6-1-2011
635-049-0265	1-1-2011	Amend(T)	2-1-2011	635-180-0015	5-4-2011	Repeal	6-1-2011
635-051-0048	1-19-2011	Amend(T)	3-1-2011	635-190-0030	5-4-2011	Repeal	6-1-2011
635-051-0076	1-28-2011	Adopt(T)	3-1-2011	635-195-0010	5-4-2011	Repeal	6-1-2011
635-051-0078	1-28-2011	Adopt(T)	3-1-2011	635-200-0030	3-2-2011	Renumber	4-1-2011
635-055-0000	1-14-2011	Amend	2-1-2011	644-010-0010	1-1-2011	Amend(T)	1-1-2011
635-055-0030	1-14-2011	Amend	2-1-2011	644-010-0010	2-14-2011	Amend	3-1-2011
635-055-0035	1-14-2011	Amend	2-1-2011	644-010-0010(T)	2-14-2011	Repeal	3-1-2011
635-055-0037	1-14-2011	Amend	2-1-2011	647-010-0010	7-1-2011	Amend	6-1-2011
635-056-0000	2-15-2011	Amend	3-1-2011	660-001-0000	12-8-2010	Amend	1-1-2011
635-056-0010	2-15-2011	Amend	3-1-2011	660-001-0005	12-8-2010	Amend	1-1-2011
635-056-0020	2-15-2011	Amend	3-1-2011	660-001-0007	12-8-2010	Amend	1-1-2011
635-056-0050	2-15-2011	Amend	3-1-2011	660-001-0201	12-8-2010	Amend	1-1-2011
635-056-0060	2-15-2011	Amend	3-1-2011	660-001-0210	12-8-2010	Amend	1-1-2011
635-056-0070	2-15-2011	Amend	3-1-2011	660-001-0220	12-8-2010	Amend	1-1-2011
635-056-0075	2-15-2011	Amend	3-1-2011	660-001-0230	12-8-2010	Amend	1-1-2011
635-056-0080	2-15-2011	Amend	3-1-2011	660-003-0005	12-8-2010	Amend	1-1-2011
635-056-0130	2-15-2011	Amend	3-1-2011	660-003-0010	12-8-2010	Amend	1-1-2011
635-057-0000	2-15-2011	Amend	3-1-2011	660-003-0015	12-8-2010	Amend	1-1-2011
635-060-0023	1-1-2011	Amend	2-1-2011	660-003-0020	12-8-2010	Amend	1-1-2011
635-060-0030	1-1-2011	Amend	2-1-2011	660-003-0025	12-8-2010	Amend	1-1-2011
635-060-0055	1-1-2011	Amend	2-1-2011	660-003-0032	12-8-2010	Amend	1-1-2011
635-065-0001	1-1-2011	Amend	2-1-2011	660-003-0033	12-8-2010	Amend	1-1-2011
635-065-0015	1-1-2011	Amend	2-1-2011	660-003-0050	12-8-2010	Amend	1-1-2011
635-065-0090	1-1-2011	Amend	2-1-2011	660-004-0000	2-2-2011	Amend	3-1-2011
635-065-0401	1-1-2011	Amend	2-1-2011	660-004-0000	3-16-2011	Amend	5-1-2011
635-065-0625	1-1-2011	Amend	2-1-2011	660-004-0005	2-2-2011	Amend	3-1-2011
635-065-0700	1-1-2011	Amend	2-1-2011	660-004-0005	3-16-2011	Amend	5-1-2011
635-065-0705	1-1-2011	Amend	2-1-2011	660-004-0010	2-2-2011	Amend	3-1-2011
635-065-0740	1-1-2011	Amend	2-1-2011	660-004-0010	3-16-2011	Amend	5-1-2011
635-065-0760	1-1-2011	Amend	2-1-2011	660-004-0015	2-2-2011	Amend	3-1-2011
635-066-0000	1-1-2011	Amend	2-1-2011	660-004-0015	3-16-2011	Amend	5-1-2011
635-067-0000	1-1-2011	Amend	2-1-2011	660-004-0018	2-2-2011	Amend	3-1-2011
635-068-0000	3-1-2011	Amend	3-1-2011	660-004-0018	3-16-2011	Amend	5-1-2011
635-069-0000	2-1-2011	Amend	3-1-2011	660-004-0020	2-2-2011	Amend	3-1-2011
635-072-0000	1-1-2011	Amend	2-1-2011	660-004-0020	3-16-2011	Amend	5-1-2011
635-073-0000	2-1-2011	Amend	3-1-2011	660-004-0022	2-2-2011	Amend	3-1-2011
635-073-0065	2-1-2011	Amend	3-1-2011	660-004-0022	3-16-2011	Amend	5-1-2011
635-073-0070	2-1-2011	Amend	3-1-2011	660-004-0025	2-2-2011	Amend	3-1-2011
635-073-0076	1-1-2011	Amend	2-1-2011	660-004-0025	3-16-2011	Amend	5-1-2011
635-075-0001	1-1-2011	Amend	2-1-2011	660-004-0028	2-2-2011	Amend	3-1-2011
635-075-0010	1-1-2011	Amend	2-1-2011	660-004-0028	3-16-2011	Amend	5-1-2011
635-080-0016	1-1-2011	Amend	2-1-2011	660-004-0030	2-2-2011	Amend	3-1-2011
635-080-0021	1-1-2011	Amend	2-1-2011	660-004-0030	3-16-2011	Amend	5-1-2011
635-080-0023	1-1-2011	Amend	2-1-2011	660-004-0035	2-2-2011	Amend	3-1-2011
635-080-0026	1-1-2011	Amend	2-1-2011	660-004-0035	3-16-2011	Amend	5-1-2011
635-120-0020	5-4-2011	Repeal	6-1-2011	660-004-0040	2-2-2011	Amend	3-1-2011
635-135-0020	5-4-2011	Repeal	6-1-2011	660-004-0040	3-16-2011	Amend	5-1-2011
635-140-0000	5-4-2011	Amend	6-1-2011	660-006-0000	2-2-2011	Amend	3-1-2011
635-140-0005	5-4-2011	Amend	6-1-2011	660-006-0003	2-2-2011	Amend	3-1-2011
635-140-0010	5-4-2011	Amend	6-1-2011	660-006-0004	2-2-2011	Amend	3-1-2011



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660-006-0010	2-2-2011	Amend	3-1-2011	731-035-0070	12-22-2010	Amend	2-1-2011
660-006-0015	2-2-2011	Amend	3-1-2011	734-051-0020	1-19-2011	Amend	3-1-2011
660-006-0020	2-2-2011	Amend	3-1-2011	734-051-0020(T)	1-19-2011	Repeal	3-1-2011
660-006-0025	2-2-2011	Amend	3-1-2011	734-051-0040	1-19-2011	Amend	3-1-2011
660-006-0026	2-2-2011	Amend	3-1-2011	734-051-0040(T)	1-19-2011	Repeal	3-1-2011
660-006-0027	2-2-2011	Amend	3-1-2011	734-051-0045	1-19-2011	Amend	3-1-2011
660-006-0029	2-2-2011	Amend	3-1-2011	734-051-0045(T)	1-19-2011	Repeal	3-1-2011
660-006-0031	2-2-2011	Amend	3-1-2011	734-051-0070	1-19-2011	Amend	3-1-2011
660-006-0035	2-2-2011	Amend	3-1-2011	734-051-0070(T)	1-19-2011	Repeal	3-1-2011
660-006-0040	2-2-2011	Amend	3-1-2011	734-051-0080	1-19-2011	Amend	3-1-2011
660-006-0050	2-2-2011	Amend	3-1-2011	734-051-0080(T)	1-19-2011	Repeal	3-1-2011
660-006-0055	2-2-2011	Amend	3-1-2011	734-051-0135	1-19-2011	Amend	3-1-2011
660-006-0057	2-2-2011	Amend	3-1-2011	734-051-0135(T)	1-19-2011	Repeal	3-1-2011
660-006-0060	2-2-2011	Amend	3-1-2011	734-051-0245	1-19-2011	Amend	3-1-2011
660-033-0010	3-16-2011	Amend	5-1-2011	734-051-0245(T)	1-19-2011	Repeal	3-1-2011
660-033-0020	3-16-2011	Amend	5-1-2011	734-051-0255	1-19-2011	Amend	3-1-2011
660-033-0030	3-16-2011	Amend	5-1-2011	734-051-0255(T)	1-19-2011	Repeal	3-1-2011
660-033-0120	3-16-2011	Amend	5-1-2011	734-051-0295	1-19-2011	Amend	3-1-2011
660-033-0130	11-23-2010	Amend	1-1-2011	734-051-0295(T)	1-19-2011	Repeal	3-1-2011
660-033-0130	3-16-2011	Amend	5-1-2011	734-051-0315	1-19-2011	Amend	3-1-2011
660-033-0130(T)	11-23-2010	Repeal	1-1-2011	734-051-0315(T)	1-19-2011	Repeal	3-1-2011
660-033-0135	3-16-2011	Amend	5-1-2011	734-051-0345	1-19-2011	Amend	3-1-2011
660-033-0140	3-16-2011	Amend	5-1-2011	734-051-0345(T)	1-19-2011	Repeal	3-1-2011
660-033-0145	3-16-2011	Amend	5-1-2011	734-051-0500	1-19-2011	Amend	3-1-2011
678-030-0027	11-19-2010	Amend	1-1-2011	734-051-0500(T)	1-19-2011	Repeal	3-1-2011
690-095-0005	12-14-2010	Adopt	1-1-2011	734-051-0530	1-19-2011	Amend	3-1-2011
690-095-0010	12-14-2010	Adopt	1-1-2011	734-051-0530(T)	1-19-2011	Repeal	3-1-2011
690-095-0015	12-14-2010	Adopt	1-1-2011	734-070-0017	1-28-2011	Adopt	3-1-2011
690-095-0020	12-14-2010	Adopt	1-1-2011	735-032-0065	12-22-2010	Adopt	2-1-2011
690-095-0025	12-14-2010	Adopt	1-1-2011	735-034-0000	3-16-2011	Amend	5-1-2011
690-095-0030	12-14-2010	Adopt	1-1-2011	735-034-0005	3-16-2011	Amend	5-1-2011
690-095-0035	12-14-2010	Adopt	1-1-2011	735-034-0010	3-16-2011	Amend	5-1-2011
690-095-0040	12-14-2010	Adopt	1-1-2011	735-040-0098	1-28-2011	Amend	3-1-2011
690-095-0045	12-14-2010	Adopt	1-1-2011	735-040-0098(T)	1-28-2011	Repeal	3-1-2011
690-095-0050	12-14-2010	Adopt	1-1-2011	735-046-0050	1-1-2011	Amend	2-1-2011
690-095-0055	12-14-2010	Adopt	1-1-2011	735-060-0000	1-1-2011	Amend	1-1-2011
690-095-0060	12-14-2010	Adopt	1-1-2011	735-060-0120	1-1-2011	Amend	1-1-2011
690-095-0065	12-14-2010	Adopt	1-1-2011	735-062-0002	1-1-2011	Amend	1-1-2011
690-095-0070	12-14-2010	Adopt	1-1-2011	735-062-0070	1-1-2011	Amend	1-1-2011
690-095-0075	12-14-2010	Adopt	1-1-2011	735-062-0200	1-1-2011	Amend	1-1-2011
690-095-0080	12-14-2010	Adopt	1-1-2011	735-072-0020	3-2-2011	Amend	4-1-2011
690-095-0085	12-14-2010	Adopt	1-1-2011	735-072-0050	3-2-2011	Amend	4-1-2011
690-095-0090	12-14-2010	Adopt	1-1-2011	735-080-0020	3-16-2011	Amend	5-1-2011
690-095-0095	12-14-2010	Adopt	1-1-2011	735-080-0040	3-16-2011	Amend	5-1-2011
690-095-0100	12-14-2010	Adopt	1-1-2011	735-080-0046	3-16-2011	Adopt	5-1-2011
731-017-0005	12-22-2010	Adopt	2-1-2011	735-090-0000	1-1-2011	Amend	2-1-2011
731-017-0010	12-22-2010	Adopt	2-1-2011	735-090-0020	1-1-2011	Amend	2-1-2011
731-017-0015	12-22-2010	Adopt	2-1-2011	735-090-0042	1-1-2011	Adopt	2-1-2011
731-017-0020	12-22-2010	Adopt	2-1-2011	735-090-0101	1-1-2011	Amend	2-1-2011
731-017-0025	12-22-2010	Adopt	2-1-2011	735-100-0030	2-18-2011	Am. & Ren.	4-1-2011
731-017-0030	12-22-2010	Adopt	2-1-2011	735-150-0015	4-22-2011	Amend	6-1-2011
731-017-0035	12-22-2010	Adopt	2-1-2011	735-150-0055	1-1-2011	Amend	2-1-2011
731-017-0040	12-22-2010	Adopt	2-1-2011	735-154-0005	3-16-2011	Amend	5-1-2011
731-017-0045	12-22-2010	Adopt	2-1-2011	735-176-0000	1-1-2011	Amend	1-1-2011
731-017-0050	12-22-2010	Adopt	2-1-2011	735-176-0010	1-1-2011	Amend	1-1-2011

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735-176-0019	1-1-2011	Amend	1-1-2011	801-010-0065	1-1-2011	Amend	1-1-2011
735-176-0020	1-1-2011	Amend	1-1-2011	801-010-0073	1-1-2011	Amend	1-1-2011
735-176-0021	1-1-2011	Amend	1-1-2011	801-010-0075	1-1-2011	Amend	1-1-2011
735-176-0022	1-1-2011	Amend	1-1-2011	801-010-0078	1-1-2011	Amend	1-1-2011
735-176-0023	1-1-2011	Adopt	1-1-2011	801-010-0079	1-1-2011	Amend	1-1-2011
735-176-0030	1-1-2011	Amend	1-1-2011	801-010-0080	1-1-2011	Amend	1-1-2011
735-176-0040	1-1-2011	Amend	1-1-2011	801-010-0100	1-1-2011	Amend	1-1-2011
735-176-0045	1-1-2011	Amend	1-1-2011	801-010-0110	1-1-2011	Amend	1-1-2011
736-010-0015	3-24-2011	Amend(T)	5-1-2011	801-010-0115	1-1-2011	Amend	1-1-2011
736-010-0025	3-24-2011	Amend(T)	5-1-2011	801-010-0120	1-1-2011	Amend	1-1-2011
736-010-0026	3-24-2011	Amend(T)	5-1-2011	801-010-0125	1-1-2011	Amend	1-1-2011
736-010-0030	3-24-2011	Amend(T)	5-1-2011	801-010-0130	1-1-2011	Amend	1-1-2011
736-010-0066	2-15-2011	Adopt	3-1-2011	801-010-0170	1-1-2011	Amend	1-1-2011
736-019-0000	3-30-2011	Amend	5-1-2011	801-010-0190	1-1-2011	Amend	1-1-2011
736-019-0020	3-30-2011	Amend	5-1-2011	801-010-0340	1-1-2011	Amend	1-1-2011
736-019-0040	3-30-2011	Amend	5-1-2011	801-010-0345	1-1-2011	Amend	1-1-2011
736-019-0060	3-30-2011	Amend	5-1-2011	801-040-0010	1-1-2011	Amend	1-1-2011
736-019-0070	3-30-2011	Adopt	5-1-2011	801-040-0050	1-1-2011	Amend	1-1-2011
736-019-0080	3-30-2011	Amend	5-1-2011	806-010-0105	12-14-2010	Amend	1-1-2011
736-019-0100	3-30-2011	Amend	5-1-2011	808-002-0020	1-28-2011	Amend(T)	3-1-2011
736-019-0120	3-30-2011	Amend	5-1-2011	808-003-0130	1-27-2011	Amend	3-1-2011
737-010-0020	1-28-2011	Amend	3-1-2011	812-001-0200	12-1-2010	Amend(T)	1-1-2011
737-100-0010	2-18-2011	Adopt	4-1-2011	812-001-0200	3-1-2011	Amend	4-1-2011
737-100-0040	2-18-2011	Adopt	4-1-2011	812-001-0200	5-1-2011	Amend	6-1-2011
740-200-0010	2-18-2011	Amend	4-1-2011	812-001-0200(T)	3-1-2011	Repeal	4-1-2011
740-200-0020	2-18-2011	Amend	4-1-2011	812-001-0290	3-1-2011	Amend	4-1-2011
740-200-0040	2-18-2011	Amend	4-1-2011	812-002-0320	1-1-2011	Amend	2-1-2011
741-125-0010	12-22-2010	Repeal	2-1-2011	812-002-0640	5-1-2011	Amend	6-1-2011
800-010-0015	2-1-2011	Amend	3-1-2011	812-002-0677	1-1-2011	Adopt	2-1-2011
800-010-0030	2-1-2011	Amend	3-1-2011	812-002-0700	5-1-2011	Amend	6-1-2011
800-010-0040	2-1-2011	Amend	3-1-2011	812-003-0310	5-1-2011	Amend	6-1-2011
800-010-0041	2-1-2011	Amend	3-1-2011	812-003-0320	5-1-2011	Amend	6-1-2011
800-010-0050	2-1-2011	Amend	3-1-2011	812-003-0321	5-1-2011	Adopt	6-1-2011
800-015-0010	2-1-2011	Amend	3-1-2011	812-005-0800	3-1-2011	Amend	4-1-2011
800-015-0015	2-1-2011	Amend	3-1-2011	812-006-0150	3-1-2011	Amend	4-1-2011
800-015-0030	2-1-2011	Amend	3-1-2011	812-006-0250	3-1-2011	Amend	4-1-2011
800-020-0015	2-1-2011	Amend	3-1-2011	812-007-0031	5-1-2011	Adopt	6-1-2011
800-020-0020	7-1-2011	Amend	3-1-2011	812-007-0032	5-1-2011	Adopt	6-1-2011
800-020-0025	2-1-2011	Amend	3-1-2011	812-007-0323	12-22-2010	Adopt(T)	2-1-2011
800-020-0025	7-1-2011	Amend	3-1-2011	812-007-0323	3-1-2011	Adopt	4-1-2011
800-020-0026	2-1-2011	Amend	3-1-2011	812-007-0323(T)	3-1-2011	Repeal	4-1-2011
800-025-0020	2-1-2011	Amend	3-1-2011	812-008-0065	5-1-2011	Adopt	6-1-2011
800-025-0023	2-1-2011	Amend	3-1-2011	812-008-0070	3-1-2011	Amend	4-1-2011
800-025-0025	2-1-2011	Amend	3-1-2011	812-008-0072	3-1-2011	Amend	4-1-2011
800-025-0027	2-1-2011	Amend	3-1-2011	812-008-0074	1-1-2011	Amend	2-1-2011
800-025-0030	2-1-2011	Amend	3-1-2011	812-008-0074	3-1-2011	Amend	4-1-2011
800-025-0050	2-1-2011	Amend	3-1-2011	812-008-0077	5-1-2011	Adopt	6-1-2011
800-025-0060	2-1-2011	Amend	3-1-2011	812-008-0209	5-1-2011	Amend	6-1-2011
800-030-0025	2-1-2011	Amend	3-1-2011	812-020-0090	1-1-2011	Amend	2-1-2011
800-030-0030	2-1-2011	Adopt	3-1-2011	812-021-0016	4-28-2011	Amend(T)	6-1-2011
800-030-0050	2-1-2011	Amend	3-1-2011	812-025-0000	1-1-2011	Adopt	2-1-2011
801-001-0035	1-1-2011	Amend	1-1-2011	812-025-0005	1-1-2011	Adopt	2-1-2011
801-005-0010	1-1-2011	Amend	1-1-2011	812-025-0010	1-1-2011	Adopt	2-1-2011
801-010-0010	1-1-2011	Amend	1-1-2011	812-025-0015	1-1-2011	Adopt	2-1-2011
801-010-0050	1-1-2011	Amend	1-1-2011	812-025-0020	1-1-2011	Adopt	2-1-2011

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812-025-0030	1-1-2011	Adopt	2-1-2011	817-035-0010	5-5-2011	Amend	6-1-2011
812-025-0032	5-1-2011	Adopt	6-1-2011	817-035-0030	5-5-2011	Repeal	6-1-2011
812-025-0035	1-1-2011	Adopt	2-1-2011	817-035-0050	3-1-2011	Amend(T)	4-1-2011
812-025-0040	1-1-2011	Adopt	2-1-2011	817-035-0050	5-5-2011	Amend	6-1-2011
812-025-0045	1-1-2011	Adopt	2-1-2011	817-035-0050(T)	5-5-2011	Repeal	6-1-2011
812-030-0223	5-1-2011	Adopt	6-1-2011	817-035-0070	5-5-2011	Amend	6-1-2011
812-030-0235	5-1-2011	Adopt	6-1-2011	817-035-0110	5-5-2011	Amend	6-1-2011
813-001-0060	12-1-2010	Adopt(T)	1-1-2011	817-040-0003	3-1-2011	Amend(T)	4-1-2011
813-007-0055	3-21-2011	Repeal	5-1-2011	817-040-0003	5-5-2011	Amend	6-1-2011
813-007-0057	3-21-2011	Adopt	5-1-2011	817-040-0003(T)	5-5-2011	Repeal	6-1-2011
813-007-0060	3-21-2011	Repeal	5-1-2011	817-060-0050	5-5-2011	Adopt	6-1-2011
813-008-0005	3-1-2011	Am. & Ren.(T)	4-1-2011	817-060-0050(T)	5-5-2011	Repeal	6-1-2011
813-008-0010	3-1-2011	Suspend	4-1-2011	817-090-0025	5-5-2011	Amend	6-1-2011
813-008-0015	3-1-2011	Am. & Ren.(T)	4-1-2011	817-090-0035	5-5-2011	Amend	6-1-2011
813-008-0020	3-1-2011	Suspend	4-1-2011	817-090-0045	5-5-2011	Amend	6-1-2011
813-008-0025	3-1-2011	Suspend	4-1-2011	817-090-0050	5-5-2011	Amend	6-1-2011
813-008-0030	3-1-2011	Suspend	4-1-2011	817-090-0055	5-5-2011	Amend	6-1-2011
813-008-0040	3-1-2011	Suspend	4-1-2011	817-090-0065	5-5-2011	Amend	6-1-2011
813-041-0020	12-15-2010	Amend	1-1-2011	817-090-0070	5-5-2011	Amend	6-1-2011
813-042-0030	2-17-2011	Amend	4-1-2011	817-090-0075	5-5-2011	Amend	6-1-2011
813-043-0030	2-17-2011	Amend	4-1-2011	817-090-0080	5-5-2011	Amend	6-1-2011
813-065-0120	3-1-2011	Adopt(T)	4-1-2011	817-090-0085	5-5-2011	Amend	6-1-2011
813-065-0130	3-1-2011	Adopt(T)	4-1-2011	817-090-0090	5-5-2011	Amend	6-1-2011
813-065-0140	3-1-2011	Adopt(T)	4-1-2011	817-090-0095	5-5-2011	Amend	6-1-2011
813-065-0150	3-1-2011	Adopt(T)	4-1-2011	817-090-0100	5-5-2011	Amend	6-1-2011
813-065-0200	3-1-2011	Adopt(T)	4-1-2011	817-090-0105	5-5-2011	Amend	6-1-2011
813-065-0210	3-1-2011	Adopt(T)	4-1-2011	817-090-0110	5-5-2011	Amend	6-1-2011
813-065-0220	3-1-2011	Adopt(T)	4-1-2011	817-090-0115	5-5-2011	Amend	6-1-2011
813-065-0230	3-1-2011	Adopt(T)	4-1-2011	818-013-0001	2-1-2011	Amend	2-1-2011
813-065-0240	3-1-2011	Adopt(T)	4-1-2011	818-013-0001(T)	2-1-2011	Repeal	2-1-2011
813-230-0000	2-7-2011	Amend	3-1-2011	818-013-0005	2-1-2011	Amend	2-1-2011
813-230-0000(T)	2-7-2011	Repeal	3-1-2011	818-013-0005(T)	2-1-2011	Repeal	2-1-2011
813-230-0005	2-7-2011	Amend	3-1-2011	818-013-0010	2-1-2011	Amend	2-1-2011
813-230-0005(T)	2-7-2011	Repeal	3-1-2011	818-013-0010(T)	2-1-2011	Repeal	2-1-2011
813-230-0007	2-7-2011	Adopt	3-1-2011	818-013-0015	2-1-2011	Amend	2-1-2011
813-230-0007(T)	2-7-2011	Repeal	3-1-2011	818-013-0015(T)	2-1-2011	Repeal	2-1-2011
813-230-0015	2-7-2011	Amend	3-1-2011	818-013-0020	2-1-2011	Amend	2-1-2011
813-230-0015(T)	2-7-2011	Repeal	3-1-2011	818-013-0020(T)	2-1-2011	Repeal	2-1-2011
817-005-0005	5-5-2011	Amend	6-1-2011	818-013-0025	2-1-2011	Amend	2-1-2011
817-010-0065	5-5-2011	Amend	6-1-2011	818-013-0025(T)	2-1-2011	Repeal	2-1-2011
817-010-0090	5-5-2011	Repeal	6-1-2011	818-013-0030	2-1-2011	Amend	2-1-2011
817-020-0006	5-5-2011	Amend	6-1-2011	818-013-0030(T)	2-1-2011	Repeal	2-1-2011
817-030-0005	3-1-2011	Amend(T)	4-1-2011	818-013-0035	2-1-2011	Amend	2-1-2011
817-030-0005	5-5-2011	Amend	6-1-2011	818-013-0035(T)	2-1-2011	Repeal	2-1-2011
817-030-0005(T)	5-5-2011	Repeal	6-1-2011	818-021-0017	6-1-2011	Amend(T)	6-1-2011
817-030-0015	3-1-2011	Amend(T)	4-1-2011	818-026-0060	6-1-2011	Amend(T)	6-1-2011
817-030-0015	5-5-2011	Repeal	6-1-2011	818-026-0065	6-1-2011	Amend(T)	6-1-2011
817-030-0018	3-1-2011	Amend(T)	4-1-2011	818-026-0070	6-1-2011	Amend(T)	6-1-2011
817-030-0018	5-5-2011	Repeal	6-1-2011	820-010-0209	1-14-2011	Amend	2-1-2011
817-030-0020	5-5-2011	Repeal	6-1-2011	820-010-0210	1-14-2011	Amend	2-1-2011
817-030-0030	5-5-2011	Amend	6-1-2011	820-010-0212	1-14-2011	Amend	2-1-2011
817-030-0040	5-5-2011	Repeal	6-1-2011	820-010-0213	1-14-2011	Amend	2-1-2011
817-030-0045	5-5-2011	Repeal	6-1-2011	820-010-0214	1-14-2011	Amend	2-1-2011
817-030-0055	5-5-2011	Repeal	6-1-2011	820-010-0215	12-28-2010	Amend(T)	2-1-2011
817-030-0065	5-5-2011	Amend	6-1-2011	820-010-0215	1-14-2011	Amend	2-1-2011

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820-010-0305	1-14-2011	Amend	2-1-2011	836-052-0776	2-10-2011	Amend	3-1-2011
820-010-0325	5-12-2011	Amend	6-1-2011	836-052-0790	2-10-2011	Adopt	3-1-2011
820-010-0400	1-14-2011	Amend	2-1-2011	836-052-1000	2-23-2011	Amend	4-1-2011
820-010-0417	1-14-2011	Amend	2-1-2011	836-053-0510	2-23-2011	Amend	4-1-2011
820-010-0427	1-14-2011	Amend	2-1-2011	836-071-0110	1-1-2011	Amend	2-1-2011
820-010-0435	1-14-2011	Repeal	2-1-2011	836-071-0118	1-1-2011	Adopt	2-1-2011
820-010-0463	1-14-2011	Amend	2-1-2011	836-071-0120	1-1-2011	Amend	2-1-2011
820-010-0505	1-14-2011	Amend	2-1-2011	836-080-0090	2-4-2011	Amend	3-1-2011
820-010-0520	1-14-2011	Amend	2-1-2011	836-080-0095	2-4-2011	Am. & Ren.	3-1-2011
820-010-0635	5-12-2011	Amend	6-1-2011	836-080-0170	2-4-2011	Adopt	3-1-2011
833-020-0011	2-1-2011	Amend	2-1-2011	836-080-0172	2-4-2011	Adopt	3-1-2011
833-020-0051	2-1-2011	Amend	2-1-2011	836-080-0175	2-4-2011	Adopt	3-1-2011
833-020-0081	1-1-2011	Amend	1-1-2011	836-080-0178	2-4-2011	Adopt	3-1-2011
833-040-0021	1-1-2011	Amend	1-1-2011	836-080-0180	2-4-2011	Adopt	3-1-2011
833-050-0081	1-1-2011	Amend	1-1-2011	836-080-0183	2-4-2011	Adopt	3-1-2011
833-055-0001	1-1-2011	Repeal	1-1-2011	836-080-0185	2-4-2011	Adopt	3-1-2011
833-055-0010	1-1-2011	Repeal	1-1-2011	836-080-0188	2-4-2011	Adopt	3-1-2011
833-055-0020	1-1-2011	Repeal	1-1-2011	836-080-0193	2-4-2011	Adopt	3-1-2011
833-060-0012	1-1-2011	Amend	1-1-2011	836-080-0800	3-1-2011	Adopt	2-1-2011
833-060-0062	1-1-2011	Adopt	1-1-2011	836-080-0805	3-1-2011	Adopt	2-1-2011
833-100-0021	1-1-2011	Amend	1-1-2011	836-080-0810	3-1-2011	Adopt	2-1-2011
833-110-0021	1-1-2011	Amend	1-1-2011	836-100-0010	2-10-2011	Adopt	3-1-2011
833-120-0011	5-15-2011	Amend(T)	6-1-2011	836-100-0010(T)	2-10-2011	Repeal	3-1-2011
833-120-0021	5-15-2011	Amend(T)	6-1-2011	836-100-0015	2-10-2011	Adopt	3-1-2011
833-120-0031	5-15-2011	Amend(T)	6-1-2011	836-100-0015(T)	2-10-2011	Repeal	3-1-2011
833-120-0041	5-15-2011	Amend(T)	6-1-2011	837-012-0315	1-1-2011	Amend(T)	2-1-2011
833-130-0080	1-1-2011	Adopt	1-1-2011	837-012-0315	6-29-2011	Amend	6-1-2011
836-009-0007	1-1-2011	Amend	2-1-2011	837-012-0330	1-1-2011	Amend(T)	2-1-2011
836-011-0000	1-1-2011	Amend	2-1-2011	837-012-0330	6-29-2011	Amend	6-1-2011
836-011-0250	2-4-2011	Adopt	3-1-2011	837-012-0510	5-2-2011	Amend	4-1-2011
836-011-0253	2-4-2011	Adopt	3-1-2011	837-012-0515	5-2-2011	Amend	4-1-2011
836-011-0255	2-4-2011	Adopt	3-1-2011	837-012-0520	5-2-2011	Amend	4-1-2011
836-011-0258	2-4-2011	Adopt	3-1-2011	837-012-0525	5-2-2011	Amend	4-1-2011
836-011-0260	2-4-2011	Adopt	3-1-2011	837-012-0535	5-2-2011	Amend	4-1-2011
836-011-0515	12-15-2010	Amend	1-1-2011	837-012-0540	5-2-2011	Amend	4-1-2011
836-031-0600	2-23-2011	Amend	4-1-2011	837-012-0550	5-2-2011	Amend	4-1-2011
836-031-0620	2-23-2011	Amend	4-1-2011	837-012-0555	5-2-2011	Amend	4-1-2011
836-031-0630	2-23-2011	Amend	4-1-2011	837-012-0560	5-2-2011	Amend	4-1-2011
836-031-0640	2-23-2011	Amend	4-1-2011	837-012-0565	5-2-2011	Amend	4-1-2011
836-031-0650	2-23-2011	Repeal	4-1-2011	837-040-0020	4-1-2011	Amend	4-1-2011
836-031-0660	2-23-2011	Repeal	4-1-2011	837-041-0050	12-1-2010	Amend	1-1-2011
836-031-0670	2-23-2011	Amend	4-1-2011	837-047-0100	12-28-2010	Adopt	1-1-2011
836-031-0680	2-23-2011	Amend	4-1-2011	837-047-0110	12-28-2010	Adopt	1-1-2011
836-031-0690	2-23-2011	Amend	4-1-2011	837-047-0120	12-28-2010	Adopt	1-1-2011
836-051-0030	2-23-2011	Adopt	4-1-2011	837-047-0130	12-28-2010	Adopt	1-1-2011
836-051-0032	2-23-2011	Adopt	4-1-2011	837-047-0135	12-28-2010	Adopt	1-1-2011
836-051-0034	2-23-2011	Adopt	4-1-2011	837-047-0140	12-28-2010	Adopt	1-1-2011
836-051-0036	2-23-2011	Adopt	4-1-2011	837-047-0150	12-28-2010	Adopt	1-1-2011
836-051-0038	2-23-2011	Adopt	4-1-2011	837-047-0160	12-28-2010	Adopt	1-1-2011
836-051-0040	2-23-2011	Adopt	4-1-2011	837-047-0170	12-28-2010	Adopt	1-1-2011
836-052-0114	2-23-2011	Amend	4-1-2011	839-001-0200	1-1-2011	Amend	2-1-2011
836-052-0145	2-23-2011	Amend	4-1-2011	839-020-0027	1-1-2011	Amend	2-1-2011
836-052-0151	2-23-2011	Amend	4-1-2011	839-025-0004	1-1-2011	Amend	2-1-2011
836-052-0160	2-23-2011	Amend	4-1-2011	839-025-0013	1-1-2011	Amend	2-1-2011
836-052-0636	2-10-2011	Amend	3-1-2011	839-025-0020	1-1-2011	Amend	2-1-2011

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839-025-0060	1-1-2011	Amend	2-1-2011	851-002-0040	11-29-2010	Amend	1-1-2011
839-025-0100	1-1-2011	Amend	2-1-2011	851-021-0005	11-29-2010	Amend	1-1-2011
839-025-0230	1-1-2011	Amend	2-1-2011	851-021-0010	11-29-2010	Amend	1-1-2011
839-025-0700	1-1-2011	Amend	2-1-2011	851-021-0045	11-29-2010	Amend	1-1-2011
839-025-0700	4-1-2011	Amend	5-1-2011	851-021-0055	11-29-2010	Amend	1-1-2011
839-050-0440	2-1-2011	Amend	3-1-2011	851-021-0065	11-29-2010	Amend	1-1-2011
839-050-0445	2-1-2011	Amend	3-1-2011	851-021-0090	11-29-2010	Amend	1-1-2011
845-003-0670	1-1-2011	Amend	2-1-2011	851-031-0045	11-29-2010	Amend	1-1-2011
845-005-0311	3-1-2011	Amend	4-1-2011	851-031-0070	11-29-2010	Amend	1-1-2011
845-005-0331	3-1-2011	Amend	4-1-2011	851-046-0000	12-2-2010	Repeal	1-1-2011
845-005-0355	3-1-2011	Amend	4-1-2011	851-046-0005	12-2-2010	Repeal	1-1-2011
845-005-0440	1-1-2011	Amend	2-1-2011	851-046-0010	12-2-2010	Repeal	1-1-2011
845-006-0345	1-1-2011	Amend	2-1-2011	851-046-0020	12-2-2010	Repeal	1-1-2011
845-006-0425	5-1-2011	Amend	6-1-2011	851-046-0030	12-2-2010	Repeal	1-1-2011
845-006-0480	3-1-2011	Amend	4-1-2011	851-046-0040	12-2-2010	Repeal	1-1-2011
845-008-0050	1-1-2011	Adopt	2-1-2011	851-070-0000	12-2-2010	Adopt	1-1-2011
845-008-0070	1-1-2011	Adopt	2-1-2011	851-070-0000(T)	12-2-2010	Repeal	1-1-2011
845-008-0080	1-1-2011	Adopt	2-1-2011	851-070-0005	12-2-2010	Adopt	1-1-2011
845-008-0090	1-1-2011	Adopt	2-1-2011	851-070-0005(T)	12-2-2010	Repeal	1-1-2011
845-009-0010	1-1-2011	Amend	2-1-2011	851-070-0010	12-2-2010	Adopt	1-1-2011
845-010-0146	11-20-2010	Adopt(T)	1-1-2011	851-070-0010(T)	12-2-2010	Repeal	1-1-2011
845-010-0154	1-1-2011	Am. & Ren.	2-1-2011	851-070-0020	12-2-2010	Adopt	1-1-2011
845-013-0030	5-1-2011	Amend	6-1-2011	851-070-0020(T)	12-2-2010	Repeal	1-1-2011
845-013-0050	5-1-2011	Amend	6-1-2011	851-070-0030	12-2-2010	Adopt	1-1-2011
845-013-0070	12-3-2010	Amend(T)	1-1-2011	851-070-0030(T)	12-2-2010	Repeal	1-1-2011
845-015-0138	1-1-2011	Adopt	2-1-2011	851-070-0040	12-2-2010	Adopt	1-1-2011
847-001-0005	4-25-2011	Amend	6-1-2011	851-070-0040(T)	12-2-2010	Repeal	1-1-2011
847-001-0015	4-25-2011	Amend	6-1-2011	851-070-0050	12-2-2010	Adopt	1-1-2011
847-001-0022	4-25-2011	Adopt	6-1-2011	851-070-0050(T)	12-2-2010	Repeal	1-1-2011
847-008-0070	4-25-2011	Amend	6-1-2011	851-070-0060	12-2-2010	Adopt	1-1-2011
847-010-0100	2-11-2011	Renumber	3-1-2011	851-070-0060(T)	12-2-2010	Repeal	1-1-2011
847-035-0001	2-11-2011	Amend	3-1-2011	851-070-0070	12-2-2010	Adopt	1-1-2011
847-035-0030	2-11-2011	Amend	3-1-2011	851-070-0070(T)	12-2-2010	Repeal	1-1-2011
847-035-0030	4-8-2011	Amend	5-1-2011	851-070-0080	12-2-2010	Adopt	1-1-2011
847-035-0030	4-25-2011	Amend	6-1-2011	851-070-0080(T)	12-2-2010	Repeal	1-1-2011
847-050-0027	2-11-2011	Amend	3-1-2011	851-070-0090	12-2-2010	Adopt	1-1-2011
847-065-0005	2-11-2011	Amend	3-1-2011	851-070-0090(T)	12-2-2010	Repeal	1-1-2011
847-065-0010	4-25-2011	Amend	6-1-2011	851-070-0100	12-2-2010	Adopt	1-1-2011
847-065-0015	4-25-2011	Amend	6-1-2011	851-070-0100(T)	12-2-2010	Repeal	1-1-2011
847-065-0020	4-25-2011	Amend	6-1-2011	855-010-0050	2-8-2011	Adopt(T)	3-1-2011
847-065-0025	4-25-2011	Amend	6-1-2011	855-010-0055	2-8-2011	Adopt(T)	3-1-2011
847-065-0030	4-25-2011	Amend	6-1-2011	855-010-0057	2-8-2011	Adopt(T)	3-1-2011
847-065-0035	4-25-2011	Amend	6-1-2011	855-010-0060	2-8-2011	Adopt(T)	3-1-2011
847-065-0040	4-25-2011	Amend	6-1-2011	855-010-0065	2-8-2011	Adopt(T)	3-1-2011
847-065-0045	4-25-2011	Amend	6-1-2011	855-010-0067	2-8-2011	Adopt(T)	3-1-2011
847-065-0050	4-25-2011	Amend	6-1-2011	855-010-0070	2-8-2011	Adopt(T)	3-1-2011
847-065-0055	4-25-2011	Amend	6-1-2011	855-010-0075	2-8-2011	Adopt(T)	3-1-2011
847-065-0060	4-25-2011	Amend	6-1-2011	855-010-0080	2-8-2011	Adopt(T)	3-1-2011
847-065-0065	4-25-2011	Amend	6-1-2011	855-010-0085	2-8-2011	Adopt(T)	3-1-2011
847-065-0070	4-25-2011	Adopt	6-1-2011	855-010-0087	2-8-2011	Adopt(T)	3-1-2011
850-050-0200	4-12-2011	Adopt	5-1-2011	855-011-0005	12-23-2010	Adopt	2-1-2011
850-060-0212	12-13-2010	Amend	1-1-2011	855-011-0005(T)	12-23-2010	Repeal	2-1-2011
850-060-0225	4-12-2011	Amend	5-1-2011	855-011-0020	12-23-2010	Adopt	2-1-2011
850-060-0226	12-13-2010	Amend	1-1-2011	855-011-0020(T)	12-23-2010	Repeal	2-1-2011
850-060-0226	4-12-2011	Amend	5-1-2011	855-011-0030	12-23-2010	Adopt	2-1-2011

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855-011-0040	12-23-2010	Adopt	2-1-2011	859-300-0180	2-15-2011	Adopt	3-1-2011
855-011-0040(T)	12-23-2010	Repeal	2-1-2011	859-300-0180(T)	2-15-2011	Repeal	3-1-2011
855-011-0050	12-23-2010	Adopt	2-1-2011	859-300-0190	2-15-2011	Adopt	3-1-2011
855-011-0050(T)	12-23-2010	Repeal	2-1-2011	859-300-0190(T)	2-15-2011	Repeal	3-1-2011
855-019-0265	4-18-2011	Adopt	6-1-2011	859-300-0200	2-15-2011	Adopt	3-1-2011
855-021-0010	12-23-2010	Amend	2-1-2011	859-300-0200(T)	2-15-2011	Repeal	3-1-2011
855-041-0065	12-23-2010	Amend	2-1-2011	859-300-0210	2-15-2011	Adopt	3-1-2011
855-041-0600	4-18-2011	Amend	6-1-2011	859-300-0210(T)	2-15-2011	Repeal	3-1-2011
855-041-0645	4-18-2011	Adopt	6-1-2011	859-300-0220	2-15-2011	Adopt	3-1-2011
855-045-0220	4-18-2011	Amend	6-1-2011	859-300-0220(T)	2-15-2011	Repeal	3-1-2011
855-045-0240	4-18-2011	Amend	6-1-2011	859-300-0230	2-15-2011	Adopt	3-1-2011
855-080-0021	4-11-2011	Amend	5-1-2011	859-300-0230(T)	2-15-2011	Repeal	3-1-2011
855-080-0021(T)	4-11-2011	Repeal	5-1-2011	860-022-0041	2-23-2011	Amend(T)	4-1-2011
856-010-0014	12-14-2010	Amend	1-1-2011	860-024-0020	5-4-2011	Amend	6-1-2011
858-010-0007	1-25-2011	Amend	3-1-2011	860-024-0021	5-4-2011	Amend	6-1-2011
858-010-0010	1-25-2011	Amend	3-1-2011	860-027-0050	12-20-2010	Amend	2-1-2011
858-010-0015	1-25-2011	Amend	3-1-2011	860-027-0175	12-2-2010	Adopt	1-1-2011
858-010-0036	1-25-2011	Amend	3-1-2011	860-034-0393	12-20-2010	Amend	2-1-2011
858-010-0039	1-25-2011	Amend	3-1-2011	860-034-0730	12-20-2010	Amend	2-1-2011
858-040-0015	1-25-2011	Amend	3-1-2011	860-084-0190	11-19-2010	Amend	1-1-2011
859-300-0001	2-15-2011	Adopt	3-1-2011	863-014-0020	1-1-2011	Amend	1-1-2011
859-300-0001(T)	2-15-2011	Repeal	3-1-2011	863-020-0025	2-4-2011	Amend(T)	3-1-2011
859-300-0010	2-15-2011	Adopt	3-1-2011	863-025-0065	1-1-2011	Amend	1-1-2011
859-300-0010(T)	2-15-2011	Repeal	3-1-2011	863-025-0068	1-1-2011	Adopt	1-1-2011
859-300-0020	2-15-2011	Adopt	3-1-2011	875-010-0006	3-2-2011	Amend	4-1-2011
859-300-0020(T)	2-15-2011	Repeal	3-1-2011	875-010-0016	3-2-2011	Amend	4-1-2011
859-300-0030	2-15-2011	Adopt	3-1-2011	875-010-0021	3-2-2011	Amend	4-1-2011
859-300-0030(T)	2-15-2011	Repeal	3-1-2011	875-020-0005	3-2-2011	Repeal	4-1-2011
859-300-0040	2-15-2011	Adopt	3-1-2011	875-020-0010	3-2-2011	Repeal	4-1-2011
859-300-0040(T)	2-15-2011	Repeal	3-1-2011	875-020-0015	3-2-2011	Repeal	4-1-2011
859-300-0050	2-15-2011	Adopt	3-1-2011	875-020-0020	3-2-2011	Repeal	4-1-2011
859-300-0050(T)	2-15-2011	Repeal	3-1-2011	875-020-0025	3-2-2011	Repeal	4-1-2011
859-300-0060	2-15-2011	Adopt	3-1-2011	875-020-0030	3-2-2011	Repeal	4-1-2011
859-300-0060(T)	2-15-2011	Repeal	3-1-2011	875-020-0035	3-2-2011	Repeal	4-1-2011
859-300-0070	2-15-2011	Adopt	3-1-2011	875-020-0040	3-2-2011	Repeal	4-1-2011
859-300-0070(T)	2-15-2011	Repeal	3-1-2011	875-020-0045	3-2-2011	Repeal	4-1-2011
859-300-0080	2-15-2011	Adopt	3-1-2011	875-020-0050	3-2-2011	Repeal	4-1-2011
859-300-0080(T)	2-15-2011	Repeal	3-1-2011	875-020-0055	3-2-2011	Repeal	4-1-2011
859-300-0090	2-15-2011	Adopt	3-1-2011	875-030-0010	3-2-2011	Amend	4-1-2011
859-300-0090(T)	2-15-2011	Repeal	3-1-2011	875-030-0020	3-2-2011	Amend	4-1-2011
859-300-0100	2-15-2011	Adopt	3-1-2011	875-030-0025	3-2-2011	Amend	4-1-2011
859-300-0100(T)	2-15-2011	Repeal	3-1-2011	877-001-0006	1-1-2011	Adopt	1-1-2011
859-300-0110	2-15-2011	Adopt	3-1-2011	877-001-0015	1-1-2011	Adopt	1-1-2011
859-300-0110(T)	2-15-2011	Repeal	3-1-2011	877-001-0020	1-1-2011	Adopt	1-1-2011
859-300-0120	2-15-2011	Adopt	3-1-2011	877-001-0025	1-1-2011	Adopt	1-1-2011
859-300-0120(T)	2-15-2011	Repeal	3-1-2011	877-005-0101	1-1-2011	Adopt	1-1-2011
859-300-0130	2-15-2011	Adopt	3-1-2011	877-010-0005	1-1-2011	Amend	1-1-2011
859-300-0130(T)	2-15-2011	Repeal	3-1-2011	877-010-0010	1-1-2011	Amend	1-1-2011
859-300-0140	2-15-2011	Adopt	3-1-2011	877-010-0015	1-1-2011	Amend	1-1-2011
859-300-0140(T)	2-15-2011	Repeal	3-1-2011	877-010-0020	1-1-2011	Amend	1-1-2011
859-300-0150	2-15-2011	Adopt	3-1-2011	877-010-0025	1-1-2011	Amend	1-1-2011
859-300-0150(T)	2-15-2011	Repeal	3-1-2011	877-010-0030	1-1-2011	Amend	1-1-2011
859-300-0160	2-15-2011	Adopt	3-1-2011	877-010-0040	1-1-2011	Amend	1-1-2011
859-300-0160(T)	2-15-2011	Repeal	3-1-2011	877-010-0045	1-1-2011	Amend	1-1-2011
859-300-0170	2-15-2011	Adopt	3-1-2011	877-015-0105	1-1-2011	Adopt	1-1-2011

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877-015-0131	1-1-2011	Adopt	1-1-2011	918-098-1330	3-11-2011	Amend	4-1-2011
877-015-0136	1-1-2011	Adopt	1-1-2011	918-098-1450	3-11-2011	Amend	4-1-2011
877-015-0146	1-1-2011	Adopt	1-1-2011	918-098-1510	5-1-2011	Adopt(T)	5-1-2011
877-015-0155	1-1-2011	Adopt	1-1-2011	918-098-1520	5-1-2011	Adopt(T)	5-1-2011
877-020-0000	1-1-2011	Amend	1-1-2011	918-098-1530	5-1-2011	Adopt(T)	5-1-2011
877-020-0005	1-1-2011	Amend	1-1-2011	918-098-1540	5-1-2011	Adopt(T)	5-1-2011
877-020-0008	1-1-2011	Amend	1-1-2011	918-098-1550	5-1-2011	Adopt(T)	5-1-2011
877-020-0009	1-1-2011	Amend	1-1-2011	918-098-1560	5-1-2011	Adopt(T)	5-1-2011
877-020-0010	1-1-2011	Amend	1-1-2011	918-098-1570	5-1-2011	Adopt(T)	5-1-2011
877-020-0015	1-1-2011	Repeal	1-1-2011	918-251-0000	4-1-2011	Amend	4-1-2011
877-020-0016	1-1-2011	Amend	1-1-2011	918-251-0010	4-1-2011	Repeal	4-1-2011
877-020-0020	1-1-2011	Repeal	1-1-2011	918-251-0020	4-1-2011	Repeal	4-1-2011
877-020-0030	1-1-2011	Repeal	1-1-2011	918-251-0050	4-1-2011	Repeal	4-1-2011
877-020-0046	1-1-2011	Amend	1-1-2011	918-251-0060	4-1-2011	Repeal	4-1-2011
877-020-0055	1-1-2011	Amend	1-1-2011	918-251-0080	4-1-2011	Repeal	4-1-2011
877-020-0057	1-1-2011	Amend	1-1-2011	918-251-0090	3-11-2011	Amend	4-1-2011
877-020-0060	1-1-2011	Amend	1-1-2011	918-282-0270	4-1-2011	Amend	5-1-2011
877-022-0005	1-1-2011	Amend	1-1-2011	918-282-0270	4-1-2011	Amend(T)	5-1-2011
877-025-0001	1-1-2011	Amend	1-1-2011	918-282-0280	4-1-2011	Suspend	5-1-2011
877-025-0006	1-1-2011	Amend	1-1-2011	918-305-0005	4-1-2011	Amend	4-1-2011
877-025-0011	1-1-2011	Amend	1-1-2011	918-305-0030	3-11-2011	Amend	4-1-2011
877-025-0016	1-1-2011	Amend	1-1-2011	918-305-0100	4-1-2011	Amend	4-1-2011
877-025-0021	1-1-2011	Amend	1-1-2011	918-305-0105	4-1-2011	Amend	4-1-2011
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877-030-0030	1-1-2011	Amend	1-1-2011	918-305-0120	4-1-2011	Repeal	4-1-2011
877-030-0040	1-1-2011	Amend	1-1-2011	918-305-0130	4-1-2011	Repeal	4-1-2011
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877-030-0100	1-1-2011	Amend	1-1-2011	918-305-0190	4-1-2011	Repeal	4-1-2011
877-035-0000	1-1-2011	Repeal	1-1-2011	918-305-0205	4-1-2011	Repeal	4-1-2011
877-035-0010	1-1-2011	Repeal	1-1-2011	918-305-0210	4-1-2011	Repeal	4-1-2011
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918-098-1010	3-11-2011	Amend	4-1-2011	918-400-0755	1-1-2011	Adopt	2-1-2011
918-098-1015	3-11-2011	Amend	4-1-2011	918-400-0800	12-1-2010	Amend	1-1-2011
918-098-1020	3-11-2011	Amend	4-1-2011	918-440-0000	3-11-2011	Amend	4-1-2011
918-098-1025	3-11-2011	Amend	4-1-2011	918-440-0010	3-11-2011	Amend	4-1-2011
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