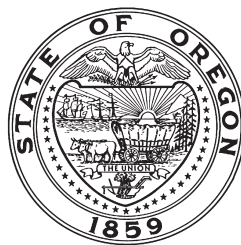


OREGON BULLETIN

Supplements the 2008 *Oregon Administrative Rules Compilation*

Volume 47, No. 11
November 1, 2008

For September 16, 2008–October 15, 2008



Published by
BILL BRADBURY
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 *Oregon Bulletin*. The *Oregon Administrative Rules Compilation* is an annual publication containing the complete text of the Oregon Administrative Rules at the time of publication. The *Oregon Bulletin* is a monthly publication which updates rule text found in the annual compilation and provides notice of intended rule action, Executive Orders of the Governor, Opinions of the Attorney General, and orders issued by the Director of the Department of Revenue.

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. Every administrative rule uses the same numbering sequence of a 3 digit agency chapter number followed by a 3 digit division number and ending with a 4 digit rule number. (000-000-0000)

How to Cite

Citation of the Oregon Administrative Rules is made by chapter and rule number. Example: Oregon Administrative Rules, chapter 164, rule 164-001-0005 (short form: OAR 164-001-0005).

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 online OAR Compilation is updated on the first of each month to include all rule actions filed with the Secretary of State’s office by the 15th of the previous month, or by the previous workday if the 15th is on a weekend or holiday. The annual printed *Oregon Administrative Rules Compilation* contains the full text of all permanent rules filed through November 15 of the previous year. Subsequent changes to individual rules are listed in the OAR Revision Cumulative Index which is published monthly in the *Oregon Bulletin*. Changes to individual administrative rules are listed in the OAR Revision Cumulative Index by OAR number and include the effective date, the specific rulemaking action and the issue of the *Oregon Bulletin* which contains the full text of the amended rule. The *Oregon Bulletin* publishes the full text of permanent and temporary administrative rules submitted for publication.

Locating Administrative Rules Unit Publications

The *Oregon Administrative Rules Compilation* and the *Oregon Bulletin* are available in electronic and printed formats. Electronic versions are available through the Oregon State Archives Web site at <http://arcweb.sos.state.or.us>. Printed copies of these publications are deposited in Oregon’s Public Documents Depository Libraries listed in OAR 543-070-0000 and 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

2007–2008 Oregon Bulletin Publication Schedule

The Administrative Rules Unit accepts rulemaking notices and filings Monday through Friday 8:00 a.m. to 5:00 p.m. 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 publication deadlines.

Submission Deadline — Publishing Date

December 14, 2007	January 1, 2008
January 15, 2008	February 1, 2008
February 15, 2008	March 1, 2008
March 14, 2008	April 1, 2008
April 15, 2008	May 1, 2008
May 15, 2008	June 1, 2008
June 13, 2008	July 1, 2008
July 15, 2008	August 1, 2008
August 15, 2008	September 1, 2008
September 15, 2008	October 1, 2008
October 15, 2008	November 1, 2008
November 14, 2008	December 1, 2008

Reminder for Agency Rules Coordinators

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

Publication Authority

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

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EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 08-22

DETERMINATION OF A STATE OF DROUGHT EMERGENCY IN SHERMAN COUNTY DUE TO DROUGHT AND LOW WATER CONDITIONS

Pursuant to ORS 401.055, I find that ongoing drought and low water conditions and weather patterns have the potential to cause local adverse natural and economic disaster conditions in Sherman County. Projected weather patterns are not expected to significantly alleviate these conditions and drought conditions are continuing. These conditions are expected to have significant economic impact on Sherman County's agricultural, livestock, and natural resources.

Current conditions are being addressed by state agencies including the Department of Agriculture, the Department of Water Resources, and Oregon Emergency Management.

A timely response to this situation being vital to the well being and economic security of the citizens and businesses of the Sherman County, I am therefore declaring a "state of drought emergency" in Sherman County and directing the following activities.

IT IS HEREBY ORDERED AND DIRECTED:

1. The Oregon Department of Agriculture shall coordinate and provide assistance in seeking federal resources available to mitigate conditions and affect agricultural recovery in Sherman County.
2. The Department of Water Resources shall coordinate and provide assistance and regulation for Sherman County as it determines is necessary in accordance with ORS 536.700 to 536.780.
3. The Office of Emergency Management is directed to coordinate and assist as needed with assessment and mitigation activities to address current and projected conditions in Sherman County.
4. All other departments shall coordinate with the above agencies to provide appropriate essential state resources to assist affected political subdivisions in the Sherman County.
5. This Executive Order expires on December 31, 2008.

Done at Salem, Oregon this 24th day of September, 2008.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

EXECUTIVE ORDER NO. 08-23

DETERMINATION OF A STATE OF DROUGHT EMERGENCY IN GILLIAM COUNTY DUE TO DROUGHT AND EXTREME WEATHER CONDITIONS

Pursuant to ORS 401.055, I find that ongoing drought and low water conditions and weather patterns have the potential to cause local adverse natural and economic disaster conditions in Gilliam County. Projected weather patterns are not expected to significantly alleviate these conditions and drought conditions are continuing. These conditions are expected to have significant economic impact on Gilliam County's agricultural, livestock, and natural resources.

Current conditions are being addressed by state agencies including the Department of Agriculture, the Department of Water Resources, and Oregon Emergency Management.

A timely response to this situation being vital to the well being and economic security of the citizens and businesses of Gilliam County, I am therefore declaring a "state of drought emergency" in Gilliam County and directing the following activities:

IT IS HEREBY ORDERED AND DIRECTED:

1. The Oregon Department of Agriculture shall coordinate and provide assistance in seeking federal resources available to mitigate conditions and affect agricultural recovery in Gilliam County.
2. The Department of Water Resources shall coordinate and provide assistance and regulation for Gilliam County as it determines is necessary in accordance with ORS 536.700 to 536.780.
3. The Office of Emergency Management shall coordinate and assist as needed with assessment and mitigation activities to address current and projected conditions in Gilliam County.
4. All other departments shall coordinate with the above agencies to provide appropriate essential state resources to assist affected political subdivisions in Gilliam County.
5. This Executive Order expires on December 31, 2008.

Done at Salem, Oregon this 24th day of September, 2008.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

EXECUTIVE ORDER NO. 08-24

OREGON'S ALTERNATIVE FUEL INFRASTRUCTURE

Oregon's oil consumption and greenhouse gas emissions are largely driven by our dependence on traditional gasoline based vehicles. Today in Oregon over 3.1 million motor vehicles are registered for roadway use and Oregonians spend more than \$2 billion annually for transportation fuels. To reduce our dependency on gasoline and diesel fuels, and to prepare Oregon for our next generation of transportation options, we must invest in alternative fuel vehicles and the infrastructure necessary to support them. Shifting towards alternative fuel vehicles will directly translate into reduced carbon emissions, increased energy independence and insulation from rising gasoline prices. We can accelerate Oregonian's transition from vehicles fuelled exclusively from petroleum by supporting infrastructure for vehicles that are fuelled by alternative energy sources, including electricity, ethanol, bio-diesel, hydrogen, natural gas and fuel cell based vehicles.

Oregon is positioned to lead the nation in establishing the infrastructure necessary for a new, greener transportation system. Oregon's commitment to sustainability and land use laws, and its integrated urban design make it the ideal starting point for the introduction of innovative vehicles. Oregon also has one of the highest per capita rates for early hybrid and plug-in electric vehicle ownership. The State already has demonstrated its commitment to investing in

EXECUTIVE ORDERS

renewable energy, reducing greenhouse gas emissions and creating a sustainable future.

Many of the world's leading automakers have pledged to bring vehicles to market over the next two years that are not solely gasoline based. Though the technology for engineering and manufacturing these alternative energy vehicles is steadily advancing, the infrastructure needed to ensure seamless operation and provide certainty to the traveling public has not kept pace.

As the private marketplace transitions to new technologies, it is imperative that the State of Oregon, local partners and private companies work together to build a consistent and reliable refueling infrastructure that enables consumers to make the switch to new, greener vehicles. This Order creates the Governor's Alternative Fuel Vehicle Infrastructure Working Group to address the challenges of building and maintaining a consistent and reliable alternative fuel infrastructure.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Governor's Alternative Fuel Vehicle Infrastructure Working Group (Working Group) is established.
2. The Working Group shall consist of 11–13 members appointed by the Governor. The Working Group shall consist of members with expertise in alternative fuel vehicles and infrastructure, who will be drawn from the transportation and utility industries, state and local government, the business community and the energy efficiency and conservation community, as well as members of the general public.
3. Members of the Working Group shall serve at the pleasure of the Governor.
4. The Governor shall appoint the chair of the Working Group, who shall establish an agenda and provide leadership and direction for the Working Group. The chair may appoint and approve the creation of subcommittees for the Working Group. The chair may, on behalf of the Governor, request participation of other individuals that he or she determines could add to the success of the Working Group.
5. The Working Group shall compile, review and evaluate various market and policy research on existing alternative fuel infrastructure policies, procedures and programs. This review shall be organized to reflect not only current opportunities and barriers to the deployment of alternative fuel vehicles but also future opportunities for leadership and growth in the alternative fuel vehicle marketplace.
6. The Working Group shall strive to operate by consensus; however, the Working Group may approve measures and make

recommendations based on an affirmative vote of the majority of the members present.

7. In order to assist companies to bring these new products to market and prepare Oregon's citizens for this next generation of transportation options, the Working Group shall:

- a. Identify opportunities to encourage consistency with the design, standards and operations of EV charging stations, including signage;
 - b. Draft design standards for "smart charging" which can be implemented in order to best utilize the existing electric power grid;
 - c. Develop a plan to work with the private sector to build and maintain alternative fuel stations within Oregon by October 1, 2010;
 - d. Provide a forum for citizen input on how to make sure that alternative fuel technologies enhance Oregon's communities and livability;
 - e. Explore possible standards and guidelines for residential charging infrastructure, including charging at apartment and condominium communities;
 - f. Assist in implementing a public awareness campaign about how to utilize public and private investments in the alternative fuel infrastructure; and
 - g. Provide written recommendations to the Governor on or before December 31, 2009.
8. The Oregon Department of Transportation shall staff the Working Group. All other state agencies shall provide assistance to the Working Group upon request.
9. Working Group members are not entitled to reimbursement of expenses or per diem provided in ORS 292.495.
10. This Order shall remain in effect until December 31, 2009.

Done at Salem, Oregon this 26th day of September, 2008.

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

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

OTHER NOTICES

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DECISION FOR PENSKE TRUCK LEASING, PORTLAND, OREGON

COMMENTS DUE: December 1, 2008, 4:30 pm

PROJECT LOCATION: 4110 NW St. Helens Road, Portland, OR

PROPOSAL: Pursuant to Oregon Revised Statute, ORS 465.230 and 465.320, and Oregon Administrative Rules, OAR 340-122-077, OAR 340-122-078 and OAR 340-122-100, the Department of Environmental Quality (DEQ) invites public comment on its proposal to approve a no further action determination (NFA) for the Penske Truck Leasing site, a commercial development located in the northwest industrial area of Portland.

HIGHLIGHTS: The 5.1-acre property located between NW St. Helens Road and NW Yeon Avenue, was used historically for a school, school supply warehouse and several prior trucking/distribution businesses. In 2007 and 2008, the site underwent a complete redevelopment that included all new buildings and a large paved parking area.

This site was entered into DEQ's Environmental Cleanup Site Information database (ECSI) in August of 2008 as site #5055, when Penske Truck Leasing entered DEQ's Voluntary Cleanup Program via the Independent Cleanup Pathway (ICP). At that time consultants for Penske submitted reports describing removal actions taken, along with post-removal site soil and groundwater sampling results. Past contaminant releases at the site that were discovered during site investigations in 2006 and 2007 included soil contamination from areas below above-ground fuel storage tanks and two former oil-water separators (OWSs). Prior to the recent site investigation and remedial efforts, ten former underground storage tanks (USTs) had been decommissioned by removal, along with excavation of contaminated soils in 1989-90. The site received an NFA for the tank removals from DEQ's Leaking Underground Storage Tank Program in 1990.

Between April and May 2007 approximately 1,213 tons of petroleum-contaminated soils were removed from the site prior to site development activities. In addition, the two oil-water separators were decommissioned. Based on the extent of the removal and remedial actions, plus the evaluation of residual risks by comparison to applicable risk-based screening concentrations, and site redevelopment actions, DEQ has determined that there is no unacceptable risk present and is prepared to issue a NFA determination for the Penske Truck Leasing site.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Northwest Region Office, located at 2020 SW 4th Avenue, Portland, OR 97201. To access site summary information and the DEQ Penske Truck Leasing Staff Report in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet, go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter 5055 in the "Site ID" box and click "Submit" at the bottom of the page. Next, click the link labeled 5055 in the Site ID/Info column. Comments can be received by mail to the DEQ Northwest Region office [ATTN: Chuck Harman], or email to harman.charles@deq.state.or.us. The Comments must be received by 4:30 PM on December 1, 2008 in order to be considered in DEQ's decision.

THE NEXT STEP: DEQ will consider all public comments received by the December 1, 2008 deadline and the Regional Cleanup Manager will make a final decision after consideration of these public comments.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications & Outreach (503) 229-5696 or toll free in Oregon at (800) 452-4011; fax to 503-229-6762; or e-mail to deqinfo@deq.state.or.us. People with hearing impairments may call DEQ's TTY number, 503-229-5471.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DETERMINATION ROBERTS CREEK FUEL SPILL

COMMENTS DUE: 5 pm, December 1st, 2008

PROJECT LOCATION: Mile post 118 southbound Interstate Highway I-5, near Winston, OR

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) requests public comment on its recommendation that no further action is required for investigation or cleanup of petroleum contamination at the Roberts Creek Spill Site near Roberts Creek and Winston, OR.

HIGHLIGHTS: On the morning of March 11th, 2006, on I-5 Southbound, Mile Post 118, Douglas County, Oregon a Truax Oil Inc. petroleum tanker truck and trailer carrying 9,100 gallons of gasoline and 2,002 gallons of diesel fuel crashed and caught fire. Unburned portions of the gasoline and diesel fuel were released, and a portion of the asphalt road was liquefied by the heat and released to the environment. The fuel flowed beneath the roadway down the west embankment and to an unnamed tributary of Roberts Creek. The I-5 right-of-way and an adjacent property zoned for exclusive farm use (cattle grazing) were affected by the spill. An extensive cleanup was conducted. Over 11,000 tons of contaminated soil was disposed at Coffin Butte Landfill, and 159,878 gallons of contaminated water was treated and disposed of at Roseburg Urban Sanitary Authority's Treatment Plant.

Soil sampling and groundwater monitoring to verify the cleanup indicated no free recoverable petroleum product is present onsite. Truax Oil, Inc. conducted additional assessment of the soil and groundwater. Residual contaminant concentrations are below risk-based concentrations considered safe for construction and excavation workers in the Oregon Department of Transportation right-of-way. Levels in groundwater and surface water are also considered safe for human health consumption. Also, the Roberts Creek surface water samples were below detection limits for all parent compounds (Diesel and Gasoline Fuel), individual constituents (Benzene, Toluene, Ethylbenzene, Xylenes [BTX]), and Polynuclear Aromatic Hydrocarbons (PAHs) for the most recent three bi-weekly sampling events. Therefore, it is unlikely any unacceptable risk remains for potential ecological receptors in the surface water.

HOW TO COMMENT: A DEQ Staff Report presenting details about the site and cleanup activities supports the decision to approve the No-Further-Action determination. The staff report is available for review, electronically, by contacting the DEQ project manager, Ian Balcom at 541-687-7347 or at balcom.ian@deq.state.or.us, or the report can be viewed in person at the DEQ Eugene office by appointment. Western Region Cleanup Division, 1102 Lincoln St, Ste 210, Eugene, OR 97401

Comments on the proposed determination need to be received by the Eugene Office, attn: Ian Balcom, by 5 pm on December 1st, 2008. Fax or email comments are acceptable. The Fax number is 541-686-7551.

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

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

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

REQUEST FOR COMMENT PROPOSED APPROVAL OF CLEANUP AT THE CATHOLIC CHARITIES PPA SITE (ESPERANZA COURT HOUSING) PORTLAND, OREGON

COMMENTS DUE: December 1, 2008

PROJECT LOCATION: 3611 SE 28th Avenue, Portland, Oregon

OTHER NOTICES

PROPOSAL: The Department of Environmental Quality is proposing to issue a "Conditional No Further Action" (CNFA) determination based on results of site investigation and remedial activities performed at the Catholic Charities PPA site located at 3611 SE 28th Avenue in Portland, Oregon. DEQ has determined that no further action is required because the site does not pose a risk that exceeds the acceptable risk level defined in ORS 465.315. The site will remain on the Confirmed Release List and the Inventory of Hazardous Substance Sites.

HIGHLIGHTS: The project site is located over a historical ravine that was filled prior to the 1940s with soils that contained organic material. Four structures and associated parking lots were built on the project site between 1960 and 1961 and were used for commercial purposes by the Society of St. Vincent DePaul. Catholic Charities purchased the project site and entered into a Prospective Purchaser Agreement (PPA) with DEQ in 2006. Site investigation revealed methane gas in fill at concentrations greater than the lower explosive limit for methane. Earlier investigation of a leaking underground fuel storage tank next to one of the buildings resulted in the removal of 180 tons of gasoline-contaminated soil in 1996. Some contamination was left below the building foundation at that time. During redevelopment, the building, and an additional 552 tons of gasoline-contaminated soil was removed but approximately 40 yards of contaminated soil could not be removed. Based on investigations, methane and petroleum are present below the surface at concentrations that could pose potential risk for occupants of new site buildings. The new site multi-family housing structure was designed and built incorporating vapor-barrier engineering controls to mitigate risk.

Extensive testing has demonstrated that the installed engineering controls will mitigate the potential for vapor intrusion of methane and gasoline vapors to indoor air. The proposed CNFA will require annual monitoring to demonstrate ongoing risk mitigation. At the project 5-year review the need for monitoring will be re-evaluated. DEQ concludes that environmental conditions at the site do not pose an unacceptable risk to human health and the environment, and therefore, meet the requirements of the Oregon Environmental Cleanup Laws.

HOW TO COMMENT: DEQ's Staff Report memo for the Catholic Charities site and other project file information is available for public review (by appointment) at DEQ's Northwest Region Office, 2020 SW Fourth Avenue, Suite 400, Portland, Oregon, 97201. To schedule a file review appointment, call Dawn Weinberger at 503-229-6729; toll free at 1-800-452-4011; or TTY at 503-229-5471. Summary information and a copy of the Staff Report memo are available in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet, go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter 4589 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 4589 in the Site ID/Info column. Please send written comments to Robert Williams, Project Manager, at the address listed above or via email at Williams.robert.k@deq.state.or.us. To be considered, DEQ must receive written comments by 5 pm on December 1, 2008. Upon written request by ten or more persons or by a group with a membership of 10 or more, DEQ will hold a public meeting to receive verbal comments.

THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above, before making a final decision regarding the "Conditional No Further Action" determination. In the absence of comments, DEQ will issue the Conditional No Further Action determination for the Catholic Charities site.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications & Outreach (503) 229-5696 or toll free in Oregon at (800) 452-4011; fax to 503-229-6762; or e-mail to deqinfo@deq.state.or.us. People with hearing impairments may call DEQ's TTY number, 503-229-5471.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DECISION FOR GRESHAM CLEANERS (FORMER) GRESHAM, OREGON

COMMENTS DUE: December 1, 2008, 5:00 pm PST.

PROJECT LOCATION: 40-360 Burnside Road, Gresham, Oregon

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to issue a "No Further Action" determination based on results of site investigation activities performed at the above referenced site. DEQ has determined that no further action is justified because the site does not pose a risk that exceeds the acceptable risk level defined in 465.315.

HIGHLIGHTS: The Gresham Cleaners is a former dry cleaner that operated from 1991 through 2004. A dry cleaning solvent, tetrachloroethene and its breakdown products were detected in soil and groundwater in 2006. Two years of groundwater monitoring indicates that the groundwater plume is not expanding.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Bend Office, 300 SE Reed Market Road, Bend, Oregon 97702. To schedule an appointment to review the file or to ask questions, please contact Marcy Kirk at (541) 388-6146 ext. 222. To access site summary information and the staff report in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet, go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter 4856 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 4856 in the Site ID/Info column. Written comments must be sent to Marcy Kirk, Project Manager at the above address or to kirk.marcy@deq.state.or.us. Comments must be received by 5:00 PM on the due date in order to be considered in DEQ's decision.

THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above, before making a final decision regarding the "no further action" determination.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications & Outreach (503) 229-5696 or toll free in Oregon at (800) 452-4011; fax to 503-229-6762; or e-mail to deqinfo@deq.state.or.us. People with hearing impairments may call DEQ's TTY number, (800) 375-2900.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DECISION FOR TRUITT BROTHERS (AGRIPAC PLANT #1) SALEM, OREGON

COMMENTS DUE: December 1, 2008 by 5:00 p.m.

PROJECT LOCATION: 845 Bassett Street NW, Salem

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 Truitt Brothers (Agripac Plant #1) site located at 845 Bassett Street NW in Salem, Oregon.

HIGHLIGHTS: The Voluntary Cleanup Program has reviewed site assessment activities performed at the site. Concentrations of petroleum products and solvents detected in the soil and/or groundwater are below applicable risk based pathways for the site.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eastern Regional Office at 700 SE Emigrant, Suite #330, Pendleton, OR 97801. Summary information and a copy of "No Further Action Decision Document" memo are available in DEQ's Environmental Cleanup Site Information (ECSI) database <http://www.deq.state.or.us/lq/ecsi/ecsi.htm> under Site ID 4699.

To schedule an appointment to review the file or to ask questions, please contact Katie Robertson at (541) 278-4620. Written comments should be received by December 1, 2008 and sent to Katie Robertson, Project Manager, at the address listed above. Upon written request by ten or more persons or by a group with a membership of

OTHER NOTICES

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 COMMENT PROPOSED APPROVAL OF REMEDIAL ACTIONS WEYERHAEUSER EXPORT SERVICES, COOS COUNTY, OREGON

COMMENTS DUE: December 1, 2008

PROJECT LOCATION: 3050 Tremont St., North Bend, Oregon

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to approve a series of measures undertaken by Weyerhaeuser to remediate contamination present at their former Export Services facility. The site is now owned by the Coquille Economic Development Corporation.

HIGHLIGHTS: Weyerhaeuser completed a number of studies, investigations, and soil removal actions related to soil and groundwater contaminated by a wood treatment chemical (pentachlorophenol) in and around the former Green Sort Building Area, with investigations conducted in the 1980s and early 1990s, soil removal actions conducted in the late 1990s, and post-removal-action groundwater monitoring conducted through October 2004. The investigations found that past interim removal actions taken to remediate site contamination, including capping pentachlorophenol-contaminated soils in the former Storage Shed Area beneath the RV

Park Cap, have been successful in mitigating the effects of the releases. A deed restriction will be put in place so that any residually contaminated soils under the RV Park Cap will be managed in a manner protective of human health and the environment if they are ever disturbed in the future. A draft staff report outlining DEQ’s Recommended Remedial Action is posted in DEQ’s Environmental Cleanup Site Information (ECSI) database as explained below.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ’s Eugene office at 1102 Lincoln St, Ste 210, Eugene, OR 97401. To schedule an appointment to review the file or to ask questions, please contact Bill Mason at (541) 687-7427.

Summary information and a copy of the draft Staff Report referenced above are available in DEQ’s Environmental Cleanup Site Information (ECSI) database on the Internet. To review this material, go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter 527 in the Site ID box and click “Submit” at the bottom of the page. Next, click the link labeled 527 in the Site ID/Info column. To be considered, written comments should be sent to Bill Mason, Project Manager, at the address listed above or by email at mason.bill@deq.state.or.us, and must be received by 8:00 AM on Monday, December 1, 2008. A public meeting will be held upon written request by ten or more persons or by a group with a membership of 10 or more.

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

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 Accountancy
Chapter 801**

Rule Caption: Effective date of professional standards adopted by the Board.

Date: 12-1-08 **Time:** 10 a.m.–12 p.m. **Location:** 3218 Pringle Rd. SE
Salem, OR 97302

Hearing Officer: Stuart Morris, PA

Stat. Auth.: ORS 183.332 & 673.410

Stats. Implemented: ORS 183.337 & 673.410

Proposed Amendments: 801-001-0035

Last Date for Comment: 12-1-08, 5 p.m.

Summary: The rule is amended to update the effective date of professional standards to January 1, 2009.

Rules Coordinator: Kimberly Bennett

Address: Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302

Telephone: (503) 378-4181

Rule Caption: Add cost recovery, clarify exam rules and sole proprietor firm registration requirements.

Date: 12-1-08 **Time:** 10 a.m.–12 p.m. **Location:** 3218 Pringle Rd. SE
Salem, OR 97302

Hearing Officer: Stuart Morris, PA

Stat. Auth.: ORS 670.310, 673.060, 673.400, 673.410, 673.160 & 673.170

Stats. Implemented: ORS 673.050, 673.170 & 673.400

Proposed Amendments: 801-010-0010, 801-010-0050, 801-010-0115, 801-010-0345

Last Date for Comment: 12-1-08

Summary: New provision to include cost recovery of Board investigations. Clarify CPA examination rules. Clarify that sole proprietors may also register as a professional corporation or limited liability company.

Rules Coordinator: Kimberly Bennett

Address: Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302

Telephone: (503) 378-4181

Rule Caption: Business transactions with clients.

Date: 12-1-08 **Time:** 10 a.m.–12 p.m. **Location:** 3218 Pringle Rd. SE
Salem, OR 97302

Hearing Officer: Stuart Morris, PA

Stat. Auth.: ORS 670.310 & 673.410

Stats. Implemented: ORS 673.445 & 673.410

Proposed Amendments: 801-030-0020

Last Date for Comment: 12-1-08

Summary: Revisions require written disclosure when licensees and clients engage in business transactions that may affect the licensee's objectivity.

Rules Coordinator: Kimberly Bennett

Address: Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302

Telephone: (503) 378-4181

Rule Caption: Ethics CPE required every renewal period and new licensees Oregon specific ethics.

Date: 12-1-08 **Time:** 10 a.m.–12 p.m. **Location:** 3218 Pringle Rd. SE
Salem, OR 97302

Hearing Officer: Stuart Morris

Stat. Auth.: ORS 670.310, 673.040, 673.050 & 673.410

Stats. Implemented: ORS 673.165

Proposed Amendments: 801-040-0010, 801-040-0090

Last Date for Comment: 12-1-08

Summary: Revision require new licensees to complete an Oregon specific ethics course during the first renewal cycle. All licensees will be required to report 4 hours of general ethics each renewal cycle. Reduces reinstatement fees for certain licensees.

Rules Coordinator: Kimberly Bennett

Address: Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302

Telephone: (503) 378-4181

**Board of Chiropractic Examiners
Chapter 811**

Rule Caption: Changes continuing education rule to address live in-person seminars, specific course requirements and compliance audits.

Date: 11-20-08 **Time:** 9 a.m. **Location:** 123 NW Flanders
Portland, OR 97209-4012

Hearing Officer: Dave McTeague, Executive Director

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684

Proposed Amendments: 811-015-0025

Last Date for Comment: 11-20-08, 9 a.m.

Summary: Allows the OBCE to determine specific continuing education course requirements for an upcoming licensure year at meeting; provides that at least 50% of credit hours must be obtained from a live and in-person course or seminar, provides that a minimum of 10% and up to 100% may be audited for compliance.

Rules Coordinator: Dave McTeague

Address: Board of Chiropractic Examiners, 3218 Pringle Rd. SE, Suite 150, Salem, OR 97302-6311

Telephone: (503) 378-5816

**Board of Naturopathic Examiners
Chapter 850**

Rule Caption: Lists substances of Formulary Compendium for Naturopathic Physicians and add to Classifications.

NOTICES OF PROPOSED RULEMAKING

Stat. Auth.: ORS 685.125
Stats. Implemented: ORS 685.145
Proposed Amendments: 850-060-0225, 850-060-0226
Last Date for Comment: 11-21-08
Summary: Add to 850-060-0225 the following that can be prescribed: Amantadine, Exenatide, Memantine, Rimantidine, Selegiline.

Add to 850-060-0226 Classifications: Adamantanes**, Anti-Alzheimer, Incretin Analogues**.
Rules Coordinator: Anne Walsh
Address: Board of Naturopathic Examiners, 800 NE Oregon St., Suite 407, Portland, OR 97232
Telephone: (971) 673-0193

Bureau of Labor and Industries
Chapter 839

Rule Caption: Relating to the provision of rest and meal periods to employees.

Date:	Time:	Location:
11-17-08	8 a.m.	State Office Bldg., Rm. 1-B 800 NE Oregon St. Portland, OR 97232

Hearing Officer: Linda Lohr
Stat. Auth.: ORS 651.060(4) & 653.261
Stats. Implemented: ORS 653.261
Proposed Amendments: 839-020-0050
Last Date for Comment: 11-28-08
Summary: The proposed rule amendment would address the provision of rest and meal periods to employees, including factors to be considered in determining when an employee is prevented from receiving regularly scheduled meal and rest periods.
Rules Coordinator: Marcia Ohlemiller
Address: Bureau of Labor and Industries, 800 NE Oregon St., # 1045, Portland, OR 97232
Telephone: (971) 673-0784

Rule Caption: Proposed amendments to rules for statutory conformity, clarification and editorial changes.
Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 652.355(2), 653.060(2), 659A.043, 659A.046 & 659A.150-659A.186
Proposed Amendments: 839-009-0210, 839-009-0240, 839-009-0260, 839-010-0100
Last Date for Comment: 12-3-08
Summary: Proposed amendments to 839-009-0210 and 290 would conform rule language with statutory language regarding requirements for working certain numbers of hours in a certain period to become eligible for OFLA.

Proposed amendments to 839-009-0240 would conform rule language with gender neutral statutory language regarding taking OFLA sick child leave after taking parental leave.

Proposed amendments to 839-009-0260 would correct typographical and editorial errors.

Proposed amendments to 839-010-0100 would amend whistleblower rules for statutory conformity and clarification.

Rules Coordinator: Marcia Ohlemiller
Address: Bureau of Labor and Industries, 800 NE Oregon St., # 1045, Portland, OR 97232
Telephone: (971) 673-0784

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

Rule Caption: Outlines procedures for local municipalities requesting a local amendment to the state building code.

Date:	Time:	Location:
11-18-08	10:30 a.m.	1535 Edgewater St. NW Salem, OR

Hearing Officer: Aeron Teverbaugh
Stat. Auth.: ORS 455.030
Stats. Implemented: ORS 455.040
Proposed Adoptions: 918-020-0370
Last Date for Comment: 11-21-08, 5 p.m.

Summary: Under ORS 455.040, the division may approve requests from municipalities for ordinances that represent local amendments to the state building code. These proposed rules establish a procedure for submission and approval of local municipal amendment requests.

Rules Coordinator: Shauna Parker
Address: Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309
Telephone: (503) 373-7438

Rule Caption: Establishes permitting and inspection procedures for electric vehicle charging stations.

Date:	Time:	Location:
11-18-08	11 a.m.	1535 Edgewater St. NW Salem, OR

Hearing Officer: Aeron Teverbaugh
Stat. Auth.: ORS 455.065
Stats. Implemented: ORS 455.065
Proposed Adoptions: 918-311-0065
Last Date for Comment: 11-21-08, 5 p.m.

Summary: This proposed rule establishes a permitting and inspection protocol for electric vehicle charging stations. As part of the governor's sustainability agenda, the division is working to accommodate new advances in sustainable technology. The proposed rule addresses emerging technology, defining permit and inspection requirements for the installation of charging stations for electric vehicles.

Rules Coordinator: Shauna Parker
Address: Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309
Telephone: (503) 373-7438

Rule Caption: Adopts the 2008 Oregon Elevator Specialty Code.

Date:	Time:	Location:
11-18-08	9:30 a.m.	1535 Edgewater St. NW Salem, OR

Hearing Officer: Ron Crabtree
Stat. Auth.: ORS 455.030 & 460.085
Stats. Implemented: ORS 455.030 & 460.085
Proposed Amendments: Rules in 918-400
Last Date for Comment: 11-21-08, 5 p.m.

Summary: The proposed rule adopts the a **2008 Oregon Elevator Specialty Code**, which is comprised of the following national model codes: the *Safety Code for Elevators and Escalators*, ASME A17.1-2007; the *Guide for Inspection of Elevators, Escalators and Moving Walks*, ASME A17.2-2007; the *Safety Standard for Platform Lifts and Stairway Chairlifts*, ASME A18.1-2005; and the *Safety Standard for Belt Manlifts*, ASME A90.1-2003. The proposed **2008 Oregon Elevator Specialty Code** also includes Oregon-specific amendments to the *Safety Code for Elevators and Escalators*, ASME A17.1-2007, as well as the 2005 edition of the *Oregon Specialty Lift Code*.

Rules Coordinator: Shauna Parker
Address: Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309
Telephone: (503) 373-7438

Rule Caption: Adopts amendments to the 2008 Oregon Residential Specialty Code regarding seismic and window sill safety.

Date:	Time:	Location:
11-18-08	10 a.m.	1535 Edgewater St. NW Salem, OR

Hearing Officer: Richard Rogers
Stat. Auth.: ORS 455.020, 455.110, 455.525, & 455.610

NOTICES OF PROPOSED RULEMAKING

Stats. Implemented: ORS 455.610

Proposed Amendments: 918-480-0010

Last Date for Comment: 11-21-08, 5 p.m.

Summary: The proposed rule contains two interim amendments to the **2008 Oregon Residential Specialty Code**. The first interim amendment proposal prohibits the use of alternate braced panels in interior braced wall lines, a practice designed to improve the structural integrity and seismic safety of residential dwellings. The second interim amendment proposal regulates the height and glazing of window sills located a certain distance from either the finished grade or surface below, respectively. This proposed amendment addresses a life and safety issue regarding small children and other individuals who might fall through or climb out of a window.

Rules Coordinator: Shauna Parker

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

Telephone: (503) 373-7438

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Department of Consumer and Business Services, Division of Finance and Corporate Securities Chapter 441

Rule Caption: Adopts content for annual report of mortgage banker's or mortgage broker's residential mortgage activity.

Date:	Time:	Location:
11-18-08	9 a.m.	L & I Bldg., Rm. 260 350 Winter St. NE Salem, OR

Hearing Officer: Richard Blackwell

Stat. Auth.: ORS 59.860

Other Auth.: 2008 OL Ch. 38, § 1

Stats. Implemented: 2008 OL Ch. 38, § 1

Proposed Adoptions: 441-865-0025

Last Date for Comment: 11-25-08, 5 p.m.

Summary: This rulemaking proposes to permanently adopt requirements for annual reports from mortgage bankers and mortgage brokers concerning their residential mortgage activity pursuant to Senate Bill 1064, of the 2008 supplemental legislative session. The only substantive change from the temporary rule filed in June 2008 would require a mortgage banker or a mortgage broker to report on the total volume and dollar amount of loans the banker or broker made in all states.

Rules Coordinator: Shelley Greiner

Address: Department of Consumer and Business Services, Finance and Corporate Securities, 350 Winter St. NE, Rm. 410, Salem, OR 97301

Telephone: (503) 947-7484

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Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Minimum Standards for Determining Reserve Liability and Nonforfeiture Values for Preneed Insurance.

Date:	Time:	Location:
11-25-08	11 a.m.	350 Winter St. NE Conference Rm. B (basement) Salem, OR

Hearing Officer: Jeannette Holman

Stat. Auth.: ORS 731.244, 733.306 & 743.205

Stats. Implemented: ORS 731.306, 733.310, 743.215, 743.216 & 743.221

Proposed Adoptions: 836-051-0750, 836-051-0755, 836-051-0760, 836-051-0765, 836-051-0770, 836-051-0775

Proposed Amendments: 836-051-0106

Last Date for Comment: 12-2-08

Summary: This proposed rulemaking designates the 1980 CSO Mortality Table as the authority for establishing minimum standards of valuation and the minimum standard nonforfeiture value for pre-

need insurance, a form of life insurance that funds funeral services and expenses.

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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Rule Caption: Rating and Rating Organizations (Workers' Compensation Insurance Assigned Risk Plan).

Date:	Time:	Location:
11-18-08	2-3 p.m.	350 Winter St. NE Conference Rm. B (basement) Salem, OR

Hearing Officer: Jeannette Holman

Stat. Auth.: ORS 656.427, 656.730 & 731.244

Stats. Implemented: ORS 656.527, 656.730 & 737.265

Proposed Adoptions: 836-043-0034, 836-043-0071, 836-043-0087

Proposed Amendments: 836-043-0005, 836-043-0009, 836-043-0017, 836-043-0021, 836-043-0024, 836-043-0028, 836-043-0032, 836-043-0041, 836-043-0044, 836-043-0046, 836-043-0048, 836-043-0050, 836-043-0053, 836-043-0060, 836-043-0062, 836-043-0064, 836-043-0066, 836-043-0068, 836-043-0076, 836-043-0079, 836-043-0082, 836-043-0089

Proposed Repeals: 836-043-0036, 836-043-0037, 836-043-0070, 836-043-0086

Last Date for Comment: 11-25-08

Summary: This proposed rulemaking revises the workers' compensation insurance assigned risk plan to reflect changes to the governance and administration of that plan.

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 Consumer and Business Services, Oregon Occupational Safety and Health Division Chapter 437

Rule Caption: Propose to adopt changes to the Portable Fire Extinguishers standard.

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001-654.295

Proposed Amendments: 437-002-0187

Last Date for Comment: 11-28-08

Summary: Oregon OSHA is changing the rules on portable fire extinguishers because of issues discovered when the Office of State Fire Marshal (OSFM) adopted the latest version of National Fire Protection Association (NFPA) 10, Standard for Portable Fire Extinguishers. We are also using this rule making opportunity to correct some minor issues not related to the NFPA.

We added one definition and clarified another in order to aid in understanding the rule. Several changes are purely grammatical for clarity.

The major change removes language about using people or companies certified by the OSFM to do maintenance on extinguishers. New language reads that these people or companies must be acceptable to local fire authorities. We also clarified the difference between "maintenance" and "internal examination" of fire extinguishers.

Please visit our website www.orosha.org

Click 'Rules & Laws' in the left vertical column and view our proposed, adopted, and final rules.

Rules Coordinator: Sue C. Joye

Address: Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, 350 Winter St. NE, Salem, OR 97301-3882

Telephone: (503) 947-7449

NOTICES OF PROPOSED RULEMAKING

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

Rule Caption: Proposed rules affecting the processing of workers' compensation claims and the payment of medical fees.

Date:	Time:	Location:
11-20-08	5 p.m.	Labor & Industries Bldg. 350 Winter St. NE Rm. 260 (2nd Flr.) Salem, OR
11-24-08	1:30 p.m.	Labor & Industries Bldg. 350 Winter St. NE Rm. 260 (2nd Flr.) Salem, OR

Hearing Officer: Fred Bruyns

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656, primarily 656.248, 656.252, 656.260, 656.262, 656.264 & ORS 84, primarily 84.013

Proposed Adoptions: 436-009-0018, 436-009-0095, 436-015-0007, 436-060-0153

Proposed Amendments: Rules in 436-009, 436-060, 436-015-0120

Last Date for Comment: 11-26-08

Summary: General changes to OAR chapter 436: The agency proposes clarifying and plain-language amendments, in addition to the substantive changes described below. Unless stated otherwise, references to "insurers" include self-insured employers.

The agency proposes to amend OAR chapter 436, division 009, "Oregon Medical Fee and Payment Rules." These proposed rules describe the application of provider network contracts, fee discount agreements, and associated procedures and limitations that apply to these contracts and agreements including:

- That provider network contractual discounts may be applied to fees paid to certain medical providers;
- That provider network contractual discounts, except for managed care organization discounts, may not be applied to fees paid to a medical service provider or medical clinic, or to a rural hospital that qualifies for the rural exemption, or to certain examinations or reviews ordered by the director;
- Limitations on application of contractual discounts to a single discount if multiple contracts exist; the primacy of a managed care contract if multiple contracts exist;
- Provision for medical service providers and insurers to enter into "fee discount agreements," subject to maximum discounts, and related procedures and reporting requirements;
- Notification requirements regarding non-payment, reduced payment, or discounted payment of medical services;
- Requirements for insurers to respond to a medical provider's inquiries about a medical payment; and
- Sanctions and civil penalties to insurers related to the application of contractual discounts.

The agency proposes to amend OAR chapter 436, division 015, "Managed Care Organizations." These proposed rules specify who can manage care and potential sanctions for managing care by a party that is not a certified managed care organization.

The agency proposes to amend OAR chapter 436, division 060, "Claims Administration." These proposed rules address reporting, notice, payment, and dispute resolution, including:

- The claim processor's address data to be printed on insurer-generated forms;
- The insurer's report to the division when first payment of temporary disability occurs after the insurer has filed Form 1502;
- The time allowed for an insurer to respond to notice from the director that a complaint has been filed about the insurer's release of claim documents;
- That the Hearings Division of the Workers' Compensation Board, not the Workers' Compensation Division, will resolve wage disputes;
- Notice to the attending physician that the worker is engaging in behaviors that may imperil or retard recovery;

- Notice to the division when a worker, whose benefits have been suspended under OAR 436-060-0135, cooperates with the investigation;

- Time frames for payment of fatal benefits;
- Notices to the worker or beneficiaries explaining temporary disability, permanent disability, and fatal payments;
- Criteria for electronic payment of benefits; and
- Information an attorney must send to the director when requesting an attorney fee under ORS 656.262(11).

Address questions to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7581; e-mail fred.h.bruyns@state.or.us

Proposed rules are available on the Workers' Compensation Division's Web site: <http://wcd.oregon.gov/policy/rules/rules.html#proprules> or from WCD Publications, 503-947-7627 or fax 503-947-7630.

Rules Coordinator: Fred Bruyns

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

Telephone: (503) 947-7717

Department of Corrections Chapter 291

Rule Caption: Transfer of Supervision Between Community Corrections Agencies for Sex Offenders.

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

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

Proposed Amendments: 291-019-0130

Last Date for Comment: 12-15-08

Summary: This rule amendment is needed to ensure that transfer supervision of sex offenders includes a completed sex offender risk assessment so the investigating field office can accurately review the transfer request and supervision of the offender.

Rules Coordinator: Janet R. Worley

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

Telephone: (503) 945-0933

Department of Energy Chapter 330

Rule Caption: Amend State Home Oil Weatherization (SHOW) program rules.

Date:	Time:	Location:
11-24-08	9:30 a.m.	Oregon Dept. of Energy 625 Marion St. NE Salem, OR

Hearing Officer: Suzanne Dillard

Stat. Auth.: ORS 469.040, 469.673-469.720

Stats. Implemented: ORS 469.673-469.720

Proposed Amendments: 330-061-0025, 330-061-0030

Last Date for Comment: 12-1-08

Summary: The proposed rules would:

- Increase the rebate for installing qualifying energy conservation measures from \$1,000 to \$2,500 not to exceed 50 percent of the costs for projects completed by Community Action Agency or other agency serving low-income households.
- Clarify rebate amounts for blower door tests, duct leakage tests.
- Clarify energy conservation measure eligible for rebates.
- Make editorial and housekeeping changes to OAR 330-061-0005 to OAR 330-061-0050.

Rules Coordinator: Kathy Stuttaford

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

Telephone: (503) 378-4128

NOTICES OF PROPOSED RULEMAKING

Department of Fish and Wildlife Chapter 635

Rule Caption: Amendment of Rules for the Issuance and Management of Developmental Fisheries Permits.

Date:	Time:	Location:
12-12-08	8 a.m.	Embassy Suites 7900 NE 82nd Ave. Portland, OR 97220

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.146, 506.036, 506.109 & 506.119

Stats. Implemented: ORS 506.036, 506.109, 506.119, 506.129 & 506.450–506.465

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

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

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

Last Date for Comment: 12-12-08

Summary: Adopt and amend rules as determined necessary to establish the developmental fishery species list; modify rule requirements for hagfish, spot prawn, anchovy and developmental crab fisheries.

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

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

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Rule Caption: Amend rules related to the capture of Peregrine Falcons for use in Falconry.

Date:	Time:	Location:
12-12-08	8 a.m.	Embassy Suites Hotel Portland Airport 7900 NE 82nd Ave. Portland, OR

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.012, 496.112, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.112, 496.138, 496.146 & 496.162

Proposed Amendments: Rules in 635-055

Last Date for Comment: 12-12-08

Summary: Amend rules related to the capture of Peregrine Falcons to be used in the practice of Falconry. Consider new draw process for Peregrine Falcon Capture permits.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

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

Rule Caption: Procedural Rules Update to Adopt the January 1, 2008 Attorney General Model Rules.

Stat. Auth.: ORS 183.341 & 409.050

Stats. Implemented: ORS 183.325, 183.330, 183.335, 183.341, 409.120 & 409.050

Proposed Amendments: 407-001-0000, 407-001-0005, 407-001-0010

Last Date for Comment: 11-28-08, 5 p.m.

Summary: The Department of Human Services procedural rules are being amended to adopt the January 1, 2008 Attorney General's Model Rules of Procedure and to make other minor typographical adjustments.

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

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

Rules Coordinator: Jennifer Bittel

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

Telephone: (503) 947-5250

Department of Human Services, Children, Adults and Families Division: Self-Sufficiency Programs Chapter 461

Rule Caption: Changing OARs affecting public assistance, medical assistance or food stamp clients.

Date:	Time:	Location:
11-24-08	10 a.m.	500 Summer St. NE, Rm. 225 Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.111, 411.122, 411.598, 411.600, 411.660, 411.700, 411.710, 411.795, 411.816, 411.825, 412.006, 412.009, 412.014, 412.049, 412.079, 412.089, 412.124, 414.042, 414.105 & 418.005

Other Auth.: The Food and Nutrition Act of 2008; 7 USC 2014; 7 USC 2015; 42 USC 602(a)(1)(B)(iii); 42 USC 1315; 42 USC 1396a; 42 USC § 1396p(d)(4)(C); 42 USC § 1396r-5; 42 USC 1396p; 42 USC 608(b)(3) and (4); 42 CFR 435.725; 7 CFR 273.2(j); 42 CFR 431.51; 42 CFR 435.907; 7 CFR § 273.16 to 273.18; 7 CFR 273.21; 73 Fed. Reg., No. 13, Friday, Jan. 18, 2008, Proposed Rules, Department of Health and Human Services, Centers for Medicare and Medicaid Services, 42 CFR Part 441 Medicaid Program; Self-Directed Personal Assistance Services Program State Plan Option (Cash and Counseling) available at: <http://www.nasmd.org/issues/docs/FederalRegulationSelfHelp.pdf>; Food and Nutrition Service Administrative Notice 08-32

Stats. Implemented: ORS 18.900, 93.268, 411.060, 411.070, 411.105, 411.111, 411.117, 411.122, 411.598, 411.600, 411.630, 411.635, 411.660, 411.694, 411.700, 411.703, 411.708, 411.710, 411.795, 411.816, 411.825, 412.001, 412.006, 412.009, 412.014, 412.049, 412.079, 412.089, 412.124, 414.025, 414.042, 414.105, 414.839, 416.310, 416.340 & 418.005

Proposed Adoptions: 461-155-0700, 461-155-0710

Proposed Amendments: 461-001-0000, 461-001-0025, 461-101-0010, 461-110-0330, 461-110-0350, 461-115-0050, 461-130-0335, 461-135-0010, 461-135-0075, 461-135-0085, 461-135-0089, 461-135-0730; 461-135-0745, 461-135-0780, 461-135-0832, 461-135-1102, 461-135-1195, 461-135-1250, 461-145-0380, 461-145-0540, 461-145-0820, 461-145-0830, 461-150-0049, 461-150-0050, 461-155-0180, 461-155-0235, 461-155-0250, 461-155-0270, 461-155-0295; 461-155-0300, 461-155-0320, 461-155-0500, 461-155-0526, 461-155-0600, 461-155-0610, 461-160-0100, 461-160-0410, 461-160-0580, 461-160-0620, 461-165-0030, 461-170-0010, 461-170-0160, 461-170-0100, 461-170-0101, 461-170-0102, 461-170-0120, 461-170-0150, 461-170-0200, 461-175-0220, 461-175-0240, 461-175-0270, 461-175-0280, 461-175-0305, 461-180-0005, 461-180-0090, 461-180-0125

Proposed Repeals: 461-145-0840, 461-150-0048, 461-170-0170

Proposed Ren. & Amends: 461-170-0015 to 461-170-0011, 461-170-0020 to 461-170-0011, 461-170-0025 to 461-170-0011, 461-170-0030 to 461-170-0011, 461-170-0035 to 461-170-0011

Last Date for Comment: 11-26-08, 5 p.m.

Summary: OAR 461-001-0000 about definitions for the Department's public assistance programs covered by OAR Chapter 461 is being amended to change the description of the Independent Choices In-Home Services program within the definition of "community based care". This amendment eliminates language that refers to the Independent Choices Program as a demonstration project undertaken as part of the state's federal waiver. This amendment also changes the description of the purpose of cash benefits in this program. Additionally, this rule is being amended to change the definition of "initial month" for disqualifying transfers (for clients in nonstandard living arrangements in the GA, GAM, OSIP, and OSIPM programs) by stating that it applies to applicants.

OAR 461-001-0025 about the definitions of terms, components, and activities in the JOBS, Pre-TANF, Post-TANF, and TANF programs is being amended to state the definition of Parents as

NOTICES OF PROPOSED RULEMAKING

Scholars (PAS) and remove cross-references of the Degree Completion Initiative (DCI) components of the JOBS programs.

OAR 461-101-0010, 461-135-0730, 461-155-0295, and 461-180-0090 are being amended to state what the Qualified Medical Beneficiaries - Basic (QMB-BAS) program pays for, state the acronym for and provide an overview of the Qualified Medicare Beneficiaries - Individuals (QMB-SMF) program, state the specific requirements for the QMB-SMB and QMB-SMF programs, state the income standards for the QMB-SMF program, and state the initial month for benefits under the QMB-SMF program. OAR 461-101-0010 is the Department's acronym and overview rule. This rule is being amended to clarify the overview of the various programs included under the Qualified Medical Beneficiaries (QMB) program and to indicate that all of these programs are considered to be Medicare Savings Programs (MSP). This rule also is being amended to state that the QMB-BAS program pays for Part A and Part B Medicare premiums. Also, this rule is being amended to provide an overview of the QMB-SMF program. OAR 461-135-0730 about the specific requirements for the QMB program is being amended to restate the requirements for the QMB-SMB program and state the requirements for the QMB-SMF program. OAR 461-155-0295 about the income standards for the QMB-SMB and QMB-SMF programs is being amended so the title indicates the rule applies to the QMB-SMF program and correctly label the income standard for QMB-SMF. OAR 461-180-0090 about the effective date of initial month for medical benefits is being amended to state that the effective date of the initial month for QMB-SMF benefits is the first of the month in which the benefit group meets all program eligibility criteria and the Department receives the required verification.

OAR 461-110-0330 about the Extended Medical (EXT), Medical Assistance Assumed (MAA), and Temporary Assistance to Need Families (TANF) filing group used for the eligibility determination process is being amended to state that children who are receiving guardianship assistance from the Children, Adults and Families Office of Safety and Permanency for Children, may not be part of an EXT, MAA or TANF filing group.

OAR 461-110-0350 about filing groups in the Employment Related Day Care (ERDC) program is being amended to state that the filing group consists of certain applicants and household group members, even if they do not meet nonfinancial eligibility requirements, and clarify that a day care provider in the filing group for the ERDC program can also be the caretaker of a child if they are providing care for the child of an individual who is a member of an armed forces reserve unit or a member of the National Guard and has been called to active duty away from the child's home for more than 30 days. Also, this rule is being amended to state that an unmarried child and any sibling, under the age of 19 and attending secondary school or vocational training at least half time, is part of the filing group. This rule also is being amended to clarify the Department's policy and make the Department's policy consistent with the Department's practice.

OAR 461-115-0050 about when to file an application for the programs in OAR Chapter 461 is being amended to state that a new application is not needed for a redetermination of eligibility for clients in the Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM), and Qualified Medicare Beneficiary (QMB) programs or if these clients want to change programs when they are currently receiving benefits and the Department has enough information to make a determination without a new application.

OAR 461-130-0335 is being amended to clarify that the client cooperation period necessary for the removal of a JOBS disqualification from benefits in the Temporary Assistance for Needy Families (TANF) and Refugee Assistance (REF) programs is two consecutive weeks rather than the vaguer "two weeks".

OAR 461-135-0010 about assumed eligibility for medical programs is being amended to state that a pregnant woman who was eligible for and receiving medical assistance under any Medicaid

program and becomes ineligible while pregnant is assumed eligible for Medicaid.

OAR 461-135-0075 about limitations on Temporary Assistance for Needy Families (TANF) program eligibility periods is being amended to state the new time limit exemption for clients participating in the Parents as Scholars (PAS) component of the JOBS program that is replacing the Degree Completion Initiative (DCI) component of the JOBS program. This rule also is being amended to state the program will allow an exemption due to caring for a family member who has a disability, is living in the home, and is attending school full-time.

OAR 461-135-0085 about the requirements for individuals served by the Temporary Assistance for Needy Families (TANF) and Pre-TANF programs to seek assessment for substance abuse and seek appropriate treatment for substance abuse or mental health conditions is being amended to state more clearly the requirements for when a client must seek assessment or treatment for substance abuse and mental health conditions, and what type of assessment and treatment the client must pursue. The rule also is being amended to eliminate the requirement for a mental health assessment if the client has recently been diagnosed with a mental health condition. Also, this rule is being amended to state that the client must participate in mental health treatment if a mental health diagnosis recently has been made and treatment is required for success in the workplace. This rule also is being amended to restate the penalties to the client for failing to comply with the requirements of this rule. This rule is also being amended so it no longer applies to clients in the State Family Pre-SSI/SSDI (SFPSS) program.

OAR 461-135-0089 is being amended to state how an eligibility disqualification due to noncompliance with required substance abuse treatment in the Refugee (REF), Temporary Assistance for Needy Families (TANF), or Pre-TANF programs may be ended and benefits restored. This amendment clarifies that a client must demonstrate compliance with a cooperation period of two consecutive weeks and complete a revised or new case plan to get benefits restored. This rule also is being amended to distinguish between clients who express a willingness to cooperate with program requirements before the effective date of a proposed disqualification and clients who express this willingness only on or after a disqualification period begins. Also, this rule is being amended to remove language regarding four levels of penalties because now a client is either eligible to continue receiving benefits or disqualified from receiving benefits. This rule also is being amended to remove the requirement for SFPSS program clients to undergo an evaluation or participate in treatment to end the disqualification penalty.

OAR 461-135-0745 about OSIPM program eligibility for clients in acute care hospitals or nursing facilities is being amended to clarify that one of the requirements for program eligibility is to meet the continuous period of care provision.

OAR 461-135-0780 about eligibility for Pickle Amendment clients in the OSIPM program, OAR 461-155-0250 about income and payment standards for OSIP and OSIPM programs, OAR 461-155-0270 about the payment standard for OSIP and OSIPM clients in non-standard living arrangements, OAR 461-155-0300 about the shelter-in-kind standard for the OSIP, OSIPM, and QMB programs, and OAR 461-160-0580 about the excluded resource - community spouse provision in the OSIP and OSIPM programs except OSIP-EPD and OSIPM-EPD are being amended to adjust these standards to reflect the annual federal cost of living adjustments which will be effective January 1, 2009.

OAR 461-135-0832 about the definitions used in the Estate Administration rules (OAR 461-135-0832 to 461-135-0847) is being amended to correctly cross-reference the relevant administrative rules and Oregon statutes. This rule also is being amended to restate the definition of "assets" and "real property", and define of "interspousal transfer".

OAR 461-135-1102 about the Oregon Health Plan - Adults (OHP-OPU, usually referred to as OHP Standard) effective

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date policy is being amended to state that a client is not considered a new OHP Standard applicant even though not continuously eligible for OHP Standard, when transitioning from child welfare medical, Breast and Cervical Cancer Medical (BCCM), Extended Medical (EXT), OHP, Refugee Medical (REFM), or Temporary Assistance for Needy Families (TANF) related medical (MAA, MAF), or related CAWEM programs. This rule also is being amended to clarify that to be considered for the OHP Standard program, clients transitioning from child welfare, BCCM, EXT, OHP, or TANF related medical or related CAWEM programs must both establish a date of request per OAR 461-135-0300 prior to the end date of their current child welfare, BCCM, EXT, OHP, or TANF related medical or related CAWEM programs' end date and must also meet OHP Standard eligibility requirements within the 45 day application processing timeframe per OAR 461-115-0190.

OAR 461-135-1195 about State Family Pre-SSI/SSDI (SFPSS) eligibility requirements is being amended to state that the Temporary Assistance to Needy Families (TANF) income standard is used to determine eligibility for the SFPSS program and the SFPSS payment standard is used to determine the benefit amount received under SFPSS. This rule also is being amended to clarify that in filing groups with only one adult, when that adult is applying for Supplemental Security Income (SSI) and a child is receiving SSI, the filing group is ineligible for SFPSS benefits. Also, this rule is being amended to clarify that a client may continue to receive SFPSS benefits, even if denied SSI benefits, until all Social Security administrative appeals are exhausted.

OAR 461-135-1250 about the specific requirements for the Post-TANF program is being amended to state the circumstances — loss of employment, or reduction in hours worked and non-participation in JOBS activities — under which a client not meeting JOBS program requirements is no longer eligible for Post-TANF payments.

OAR 461-145-0380 is about pension plans and how they are treated in the Department's public assistance, medical, and Food Stamp (supplemental nutrition assistance) programs. This rule is being amended to correct in a typo in the current rule and add additional excluded pension plans according to a revised list from the federal Food and Nutrition Service for the Food Stamp program.

OAR 461-145-0540 related to the treatment of trusts is being amended for clients in the Oregon Supplemental Income Program Medical program (OSIPM) receiving long-term care services who need a trust to be income-eligible for Medicaid. Allowable distributions from the trust are being amended to limit the amount of medical expenses for the period of time from before the client was covered by Medicaid that can be allowed to reduce the client's liability (share of cost for care services). In addition, the amount which trustees of pooled trusts may retain, upon the death of a client who is the beneficiary of a pooled trust, before paying the state an amount equal to the total medical assistance paid on behalf of the beneficiary, is being amended to provide that the amount paid to the state can be reduced only by those administrative costs directly related to administering the beneficiary's sub-trust account.

OAR 461-145-0820 about deeming the assets of the sponsor of a noncitizen to the noncitizen applicant for Department program benefits and OAR 461-145-0830 about when to deem the assets of a sponsor of a noncitizen to the noncitizen are being amended, and OAR 461-145-0840 about calculating income deemed from sponsor of a noncitizen to the noncitizen is being repealed and combined into OAR 461-145-0830 to restate more clearly the Department's policy on deeming a sponsor's assets to a noncitizen. OAR 461-145-0820 is being amended to state that in all Department programs except the Food Stamp (FS) program the countable value of the resources deemed available to each noncitizen is determined according to the rules of the program(s) for which the sponsored non-citizen applied. OAR 461-145-0830 is being amended to state that deeming does not apply to the REF and REFM programs, the guidelines for how a sponsored noncitizen establishes indigence under various Department programs, the process used to determine the amount of income

considered available to the noncitizen from the non-citizen's sponsor and the spouse of the sponsor, and how to calculate the income deemed available to sponsored noncitizen. OAR 461-145-0840 is being repealed and combined into OAR 461-145-0830 to incorporate its provisions into the revised OAR 461-145-0830.

OAR 461-150-0048 about eligibility and budgeting, and defining prospective eligibility and budgeting, in the Employment Related Day Care (ERDC) program is being repealed and combined into OAR 461-150-0049 to incorporate its provisions into the amended OAR 461-150-0049.

OAR 461-150-0049 about budgeting income for cases using anticipating with periodic review (APR) in the Employment Related Day Care (ERDC) program is being amended to re-title it to correctly reflect the objective of the rule. This rule also is being amended to clarify that the Department may use prospective budgeting when calculating income for ERDC and eliminate the requirement to use two prior months income. Also, this rule is being amended to state the methods for calculating annualized, educational, temporary, ongoing stable, and ongoing variable income, and the cross-reference OAR for each method.

OAR 461-150-0050 about the use of prospective and retrospective eligibility and budgeting in the GA, OSIP, OSIPM, and QMB programs is being amended to state that the OSIP-EPD and OSIPM-EPD programs use prospective eligibility and budgeting for unearned income, stable earned income, and varying earned income.

OAR 461-155-0180 about the poverty related income standards in the Department's public assistance, medical, and food stamp programs, and OAR 461-155-0235 about the premium standards for the Oregon Health Plan standard (OHP-OPU) are being amended to reflect the annual change in the federal poverty guidelines.

OAR 461-155-0320 about the payment standards for participants in the Department's State Family Pre-SSI/SSDI (SFPSS) program is being amended to change the payment standards.

OAR 461-155-0500, 461-155-0526, 461-155-0600, and 461-155-0610 are being amended and OAR 461-155-0700 and 461-155-0710 are being adopted to support placement of Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM - serving the elderly and people with disabilities) clients who need long-term care services in their homes or in community-based care facilities rather than in nursing facilities. These rules relate to special needs payments for OSIP and OSIPM clients for these purposes. OAR 461-155-0500 is an overview rule about special needs payments in the General Assistance (GA), General Assistance Medical (GAM), Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM), Refugee Assistance (REF), Refugee Assistance Medical (REFM), and Temporary Assistance for Needy Families (TANF) programs. This rule is being amended to authorize personal incidentals and room and board allowances for ongoing special needs payments, authorize one-time payments to support diversion and transition from nursing facility placements, and add cross-references to other rules and statutes and follow standard formatting. This rule is being amended to make the changes in the temporary rule permanent. OAR 461-155-0526 is about special needs payments for community transition services in the Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM) programs. This rule is being amended to limit special needs payments to assisted-living facilities to items the facility is not required by law, another OAR, or contract to provide. This rule also is being amended to state that special needs payments are authorized for moving belongings and climate control systems, but not for lift chairs. This rule is being amended to make the changes in the temporary rule permanent. OAR 461-155-0600 is about special needs payments for home repairs in the General Assistance (GA), Oregon Supplemental Income Program (OSIP), and Oregon Supplemental Income Program Medical (OSIPM) programs. This rule is being

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amended to state the Department's policy for approval of special needs payments for home repairs, including that payments are limited in cases of joint ownership and more than one home repair payment can be made in the 24-month period to reach the \$1,000 maximum payment amount. This rule is being amended to make the changes in the temporary rule permanent. OAR 461-155-0610 is about special needs payments for moving costs in the GA, OSIP and OSIPM programs. This rule is being amended to state the Department's policy regarding special needs payments for moving costs in the GA, OSIP and OSIPM programs. This rule is being amended to allow for special needs payment for moving expenses when a client in a nonstandard living arrangement must move because his or her level of care needs increase or decrease and to allow for special needs payment for moving expenses when the client must move because his or her care needs would be better met out of state. This rule also is being amended with clarifications that will help field staff understand the rule. This rule also is being amended to increase the maximum amount of moving expense special needs payments that may be authorized for a client from \$300 to \$500. This rule is being amended to make the changes in the temporary rule permanent. OAR 461-155-0700 is about special needs payments for personal incidentals and room and board allowance in the OSIP and OSIPM programs. This rule is being adopted to state the Department's policy for allowing special needs payments for a client's personal incidentals and room and board costs in a community-based care facility, for a client who lacks the income to make the payment, and if the client would be placed in a nursing facility without the payment. This rule is being adopted to make the temporary rule permanent. OAR 461-155-0710 is about special needs payments for Diversion and Transition Services for an individual in the OSIP and OSIPM programs moving from a nursing facility or to avoid placement in a nursing facility and to support placement instead in community-based care. This rule is being adopted to state the Department's policy for allowing one-time special needs payments for diversion or transition. Payments will be authorized at the lowest possible cost, must be authorized by Seniors and People with Disabilities Division central office staff, cannot be covered by any other medical coverage or Department program, or if they must be provided by the facility by statute, OAR, or contract. This rule is being adopted to make the temporary rule permanent.

OAR 461-160-0100 about how income affects eligibility and benefits in the MAA, MAF, REF, SAC, SFPSS, and TANF programs is being amended to state that these programs use the countable and adjusted income standards from OAR 461-155-0030 in determining eligibility. This rule also is being amended to state the State Family Pre-SSI/SSDI (SFPSS) program is included in the programs using the countable and adjusted income standards from OAR 461-155-0030 when determining eligibility and benefits.

OAR 461-160-0410 about the treatment of income and income deductions in the Food Stamp (FS) program when a group includes ineligible or disqualified members is being amended to correctly restate the Department's policy on the treatment of TANF grant income. This amendment directs that TANF grant income is always prorated when an ineligible non-citizen is in the FS filing group. A filing group is composed of individuals living together who customarily purchase and prepare meals together.

OAR 461-160-0580 about excluded resources, specifically the community spouse provision in the OSIP and OSIPM programs, except OSIP-EPD and OSIPM-EPD, is being amended to allow the Department to waive the requirements about court-ordered community spouse resource allowances if the Department determines a denial of benefits creates an undue hardship on the client. This rule also is being amended to reflect the 2009 cost-of-living increases mandated by the federal Department of Health and Human Services.

OAR 461-160-0620 related to the liability calculation for clients in the Oregon Supplemental Income Program Medical (OSIPM, assistance to seniors and people with disabilities) receiving long-term care services is being amended to limit the amount of medical

expenses for the period when the client was not covered by Medicaid that can be deducted to reduce the client's liability (share of cost for care services). Also, this rule is being amended to remove the Oregon Supplemental Income Program (OSIP) program as the rule no longer applies to OSIP because clients on OSIP do not have enough income to owe a liability. The rule is also being amended to reflect the annual federal increase to the maximum maintenance need standard that is used to calculate how much of the client's income can be diverted to the community spouse.

OAR 461-165-0030 is being amended to clarify that Department benefits of the same type (cash, medical, or food stamps) can be issued to an individual who is a member of two or more benefit groups or participates in two or more separate programs during the same month, just not for the same portions of the same month. This rule is also being amended to clarify the Department's policy and make the Department's policy consistent with the Department's practice.

OAR 461-170-0010 is being amended to provide an overview of the change reporting requirements for clients in all of the Department's public assistance programs. The amended rule states that clients are assigned an appropriate reporting system based on the programs in which they participate: Anticipating with Periodic Review (APR), Change Reporting System (CRS), Monthly Reporting System (MRS), Simplified Reporting System (SRS), or Transitional Benefit Alternative (TBA). In addition this rule is being amended to reflect a change from "Averaging with Periodic Review" to "Anticipating with Periodic Review". Additionally, this rule needs to be amended to add CRS and state the change reporting requirements for clients assigned to CRS. This rule also is being amended to include clients assigned to TBA and state they are not required to report any changes. This rule also is being amended to correct cross-references to other OAR that have been renumbered, amended, or adopted.

OAR 461-170-0015, 461-170-0020, 461-170-0025, 461-170-0030, and 461-170-0035 are being amended and renumbered to OAR 461-170-0011 to consolidate and state the change reporting requirements in a single rule for Department clients in the Breast and Cervical Cancer Medical (BCCM), Employment-Related Day Care (ERDC), Extended Medical Benefits (EXT), Food Stamp (FS), Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), Oregon Health Plan (OHP), Oregon Supplemental Income (OSIP), Oregon Supplemental Income Program Medical (OSIPM), Qualified Medicare Beneficiary (QMB), Refugee Assistance (REF), Refugee Assistance Medical (REFM), State Family Pre-SSI / SSD (SFPSS), Substitute or Adoptive Care Medical Coverage (SAC), Temporary Assistance to Needy Families (TANF), and Transitional Benefit Alternative (TBA) programs. The new rule also defines the meaning of the terms "change in employment status" and "change in source of income". The new rule covers the following change reporting requirements for FS clients assigned to: the Change Reporting System (CRS) clients are to report changes as listed, the Monthly Reporting System (MRS) clients are to report changes as listed, as well as those required by MRS. The new rule requires clients in the GA, GAM, OSIP, OSIPM, and QMB programs who are also subject to the MRS to report changes as required by MRS. The new rule adds requirements for MAA, MAF, SAC, SFPSS, and TANF clients assigned to the CRS and states the change reporting requirements for CRS. The new rule changes the change reporting requirements for MAA, REF, SFPSS, and TANF clients assigned to the MRS, clients are also to report changes as required by MRS. The new rule now requires OSIP-EPD and OSIPM-EPD program clients to report changes in health care coverage, household group, marital status and resources. The new rule clarifies that REFM clients no longer have to report changes in pregnancy status. The new rule will allow a participant in a Department program to more readily locate the change reporting requirements for that program. OAR 461-170-0015 is being amended and renumbered to OAR 461-170-0011 to incorporate its requirements for clients in the ERDC program to report certain changes into the new OAR 461-170-0011. OAR 461-170-0020 is

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being amended and renumbered to OAR 461-170-0011 to incorporate its requirements for clients in the FS, MAA, MAF, REF, REFM, SFPSS, and TANF programs to report certain changes into the new OAR 461-170-0011. OAR 461-170-0025 is being amended and renumbered to OAR 461-170-0011 to incorporate its requirements for clients in the EXT program to report certain changes into the new OAR 461-170-0011. OAR 461-170-0030 is being amended and renumbered to OAR 461-170-0011 to incorporate its requirements for clients in the GA, GAM, OSIP, OSIPM, and QMB programs to report certain changes into the new OAR 461-170-0011. OAR 461-170-0035 is being amended and renumbered to OAR 461-170-0011 to incorporate its requirements for clients in the OHP program to report certain changes into the new OAR 461-170-0011.

OAR 461-170-0100 about the Department's Monthly Reporting System (MRS) is being amended to remove the Refugee Assistance Medical program (REFM) from the requirement to be assigned to the MRS. This rule also is being amended to state that a Medical Assistance to Families (MAF) filing group could be assigned to the MRS due to the requirements of another program.

OAR 461-170-0101 about the simplified reporting system (SRS) in the Food Stamp program is being amended to clarify that clients certified to receive benefits for less than six months cannot participate in the SRS, simplify language, and allow for rule consistency between Department programs. This rule also is being amended to add a cross reference to clarify what is meant by the term filing group in this rule.

OAR 461-170-0102 about the required Interim Change Report for the simplified reporting system in the Food Stamp program is being amended to add cross references to defined terms in the rule and to make grammatical changes.

OAR 461-170-0120 about what happens when a Monthly Change Report (MCR) is incomplete or not received by the Department is being amended to clarify that if a MCR is not received by the last day of the payment month, in all programs except the Food Stamp (FS) program, the case is closed effective the last day of the budget month. This rule is also being amended to cross reference the definition for the term "budget month".

OAR 461-170-0150 about the length of the Averaging with Periodic Review (APR) period in the Employment Related Day Care (ERDC) program is being renamed to correctly state APR as Anticipating with Periodic Review. This rule is also being amended to restate clearly the Department's policy that all participants in the ERDC program must use APR. In addition, this rule is being amended to clarify that when a client reports an income change, the Department may recalculate the anticipated future income of the client.

OAR 461-170-0160 about when a periodic review form is considered complete in the Employment Related Day Care (ERDC) program is being amended to cover what happens when a re-application is not received, and correctly restate the Department's policy about a client's responsibility to complete and return a re-application form within the deadline set by the Department. Also, this rule is being amended to replace references to periodic review form with re-application form. This rule also is being amended to state the purposes for which the Department uses the re-application form: determining eligibility for ERDC benefits, establishing ERDC benefit copy amounts, and establishing the next APR period. In addition, this rule is being amended to include information from former OAR 461-170-0170 regarding closing of an ERDC case when a completed periodic review form is not returned to the Department by the deadline and that a completed periodic review form returned after the deadline is treated as a new application for benefits.

OAR 461-170-0170 about the Department's actions in the Employment Related Day Care (ERDC) program when a periodic review form is incomplete or not returned to the Department by the indicated deadline is being repealed and combined into OAR 461-170-0160 to incorporate its provisions into OAR 461-170-0160.

OAR 461-170-0200 about state and federal government initiated changes to benefits that clients are not required to report to the

Department is being amended to clarify the rule language and include as changes that need not be reported the cost of living changes to the Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), State Family Pre-SSI/SSDI (SFPSS), and Temporary Assistance to Needy Families (TANF) programs. This rule is also being amended to update a reference to the Aid to Dependent Children (ADC) program, which was renamed the TANF program.

OAR 461-175-0220, 461-175-0240, 461-175-0270, 461-175-0280, 461-175-0305, about the type of notice the Department is required to send a client when the client's benefits change or are discontinued, and 461-180-0005 about effective dates when the Department acts on changes for clients assigned to the Anticipating with Periodic Review (APR) reporting system are being amended to remove references to the "Periodic Review" form and replace that term with "re-application" form. These rules are being amended because the Department is replacing the Periodic Review form with the reapplication form.

OAR 461-180-0125 is about effective dates when reopening Food Stamp benefits after a benefit closure due to mail returned by the U.S. Post Office marked "undeliverable, no forwarding address." This rule is being amended to include Employment Related Day Care (ERDC) and clarify that ERDC benefits can be reopened effective the first of the month if benefit closure reason was returned mail, and the client contacted the Department within the first calendar month following the case closure with a new mailing address.

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

Rules Coordinator: Annette Tesch

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

Telephone: (503) 945-6067

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

Rule Caption: Relative Value Units weights used for CPT reimbursement.

Date:	Time:	Location:
11-17-08	10:30 a.m.	DHS Bldg., Rm. 166 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010, 409.025, 409.040, 409.050 & 409.110

Stats. Implemented: ORS 414.019, 414.025, 414.033, 414.065, 414.095, 414.705, 414.727, 414.728, 414.742 & 414.743

Proposed Amendments: 410-120-1340

Last Date for Comment: 11-28-08

Summary: The General Rules program administrative rules govern Division of Medical Assistance Programs' (DMAP) payment for services provided to clients. DMAP will amend rule 410-120-1340 to follow the standards for payment methods subsequent to the yearly revisions to the Relative Value Units (RVU) weights made by Centers of Medicare and Medicaid (CMS). This rule will be amended to specify which RVUs will be utilized for the calendar year 2009 and include a COLA to the RVU conversion factor of 3.5%. Text will be revised to improve readability and take care of necessary "house-keeping" corrections.

Rules Coordinator: Darlene Nelson

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

Telephone: (503) 945-6927

Rule Caption: Semi-annual Practitioner Managed Prescription (PMPDP) Plan Drug list (PDL); pricing calculations; vaccinations; Federal Upper Limits; and nursing homes.

NOTICES OF PROPOSED RULEMAKING

Date: 11-17-08
Time: 10:30 a.m.
Location: DHS Bldg., Rm. 166
500 Summer St. NE
Salem, OR

Hearing Officer: Darlene Nelson

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

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-121-0000, 410-121-0030, 410-121-0032, 410-121-0060, 410-121-0185, 410-121-0300, 410-121-0625

Proposed Repeals: 410-121-0140

Last Date for Comment: 11-28-08

Summary: The Pharmaceutical Services program rules govern the Division of Medical Assistance Programs' (DMAP) payments for services provided to certain clients. DMAP will amend rules listed above to clarify current policies and procedures and as follows:

410-121-0000: To add text from OAR 410-121-0140, Definition of Terms;

410-121-0030: To add certain drugs to the PMPDP PDL and to reflect net cost of drugs;

410-121-0032: To reflect net cost of drugs;

410-121-0060: To correct Pharmacy Benefits Manger (PBM);

410-121-0140: Text removed and placed into OAR 410-121-0000, Forward and Definition of Terms;

410-121-0185: To make DMAP rules congruent with Board of Pharmacy rules on vaccinations, and to update a Board of Pharmacy rule number reference in the rule;

410-121-0300: To update the reference for Centers for Medicare and Medicaid (CMS) Transmittals and updates to Transmittals for the Federal Upper Limits (FUL) for prescription drugs.

410-121-0625: To require Nursing Homes to be billed for items covered under Seniors and People with Disabilities (SPD) all-inclusive-rate. Text in all rules listed may be revised to improve readability and take care of necessary "housekeeping" corrections.

Rules Coordinator: Darlene Nelson

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

Telephone: (503) 945-6927

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Rule Caption: January 1, 2009 Rule Revisions.

Date: 11-17-08
Time: 10:30 a.m.
Location: DHS Bldg., Rm. 166
500 Summer St. NE
Salem, OR

Hearing Officer: Darlene Nelson

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

Stats. Implemented: ORS 414.065

Proposed Adoptions: Rules in 410-122

Proposed Amendments: 410-122-0182, 410-122-0200, 410-122-0202, 410-122-0203, 410-122-0204, 410-122-0330, 410-122-0340, 410-122-0365, 410-122-0560, 410-122-0580, 410-122-0630, 410-122-0655

Last Date for Comment: 11-28-08

Summary: The Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) program administrative rules govern Division of Medical Assistance Programs' (DMAP) payment for services provided to certain clients. DMAP will adopt and amend rules as follows:

Adoptions: 410-122-xxxx Cough Stimulating Device: Establishes conditions of coverage.

410-122-xxxx Positive Airway Pressure (PAP) Devices for Pediatric Obstructive Sleep Apnea: Adds current inclusion criteria for pediatric obstructive sleep apnea from 410-122-0202 CPAP System. Requires downloadable report of PAP device compliance & therapy. Clarifies inclusion criteria.

Amendments: 410-122-0182 Legend: Clarifies "months rented" language.

410-122-0200 Pulse Oximeter for Home Use: Revises conditions of coverage.

410-122-0202 CPAP System: Changes name of rule to "Positive Airway Pressure Devices for Adults" Requires downloadable report of PAP device compliance & therapy. Moves pediatric coverage for obstructive sleep apnea to a new rule.

410-122-0203 Oxygen and Oxygen Equipment: In Table 0203 corrects "16R" to "36R" (An item with a "36R" designation means it is considered purchased & owned by the client after 36 months of rent.)

410-122-0204 Nebulizers: Adds that when billing for quantities of supplies greater than those described in rule as the usual maximum amounts, there must be clear documentation in the client's medical records corroborating the medical appropriateness of the current use.

410-122-0330 Power-Operated Vehicle: Removes requirement that date of face-to-face evaluation be written on the prescription (duplication in rule, already required on the evaluation report).

410-122-0340 Wheelchair Options/Accessories: Adds E2208 (wheelchair accessory, cylinder tank carrier, each). This code is currently covered. Adds E2209 (accessory, arm trough, with or without hand support, each). This code is currently covered. Adds E2300 (power w/c accessory, power seat elevation system) as an exclusion of coverage. Elevator systems codes currently are excluded from coverage. Adds E2392 (power wheelchair accessory, solid (rubber/plastic) caster tire with integrated wheel, any size, replacement only, each). This code is currently covered. Removes K0106 (arm trough) from rule (obsolete code).

410-122-0365 Standing and Positioning Aids: Adds E0641 (standing frame system, multi-position, any size including pediatric, with or without wheels) and E0642 (standing frame system, mobile (dynamic stander), any size including pediatric. These codes are currently covered.

410-122-0560 Urological Supplies: Adds coverage criteria to allow for one sterile catheter for each intermittent catheterization. Clarifies conditions of coverage. Corrects descriptions of A4326 (male external catheter with integral collection chamber, any type, each) and A5105 (urinary suspensory with leg bag, with or without tube, each) These codes are currently covered.

410-122-0580 Bath Supplies: Removes asterisk following description of E0162. Removes text following description of E0240. Revises coverage criteria for rehab shower commode chair.

410-122-0630 Incontinent Supplies: Removes prior authorization requirements for incontinent supplies.

410-122-0655 External Breast Prostheses: Adds that an external breast prosthesis of a different type may be covered if there is a change in the client's medical condition necessitating a different type of item.

Text will be revised to improve readability and make necessary "housekeeping" corrections.

Rules Coordinator: Darlene Nelson

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

Telephone: (503) 945-6927

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Rule Caption: January 1, 2009 rule changes.

Date: 11-17-08
Time: 10:30 a.m.
Location: DHS Bldg., Rm. 166
500 Summer St. NE
Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.050, 414.051 & 414.065

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-123-1085, 410-123-1160, 410-123-1220, 410-123-1230, 410-123-1240, 410-123-1260, 410-123-1490, 410-123-1620, 410-123-1670

Last Date for Comment: 11-28-08

Summary: The Dental Services program administrative rules govern Division of Medical Assistance Programs' (DMAP) payment for services provided to certain clients. DMAP will amend 410-123-1260 to increase coverage limitations of preventive dental care for

NOTICES OF PROPOSED RULEMAKING

children due to revisions of the Health Services Commission's guidelines. The table is removed as unnecessary text. This and new information will be in tables in the DMAP Dental Supplemental Information document and referenced in rule. DMAP will amend other rules listed above to clarify current policies and procedures to ensure these rules are not open to interpretation by the provider or outside parties and to help eliminate confusion possibly resulting in non-compliance. DMAP will clarify rules to help facilitate provider compliance with federal requirements, service coverage and limitations, and billing requirements. Text will be revised to improve readability and take care of necessary "housekeeping" corrections.

Rules Coordinator: Darlene Nelson

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

Rule Caption: January 2009 federal billing code requirements.

Date:	Time:	Location:
11-17-08	10:30 a.m.	DHS Bldg., Rm. 166 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

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

Stats. Implemented: ORS 414.065, 414.727, 414.050 & 414.010

Proposed Amendments: 410-125-0020, 410-125-0041, 410-125-0045, 410-125-0080, 410-125-0085, 410-125-0155, 410-125-0181, 410-125-0195, 410-125-1020

Last Date for Comment: 11-28-08

Summary: The Hospital Services program administrative rules govern Division of Medical Assistance Programs' (DMAP) payment for services provided to certain clients. DMAP will amend rules listed above to clarify text and to comply with federal billing code requirements. Text will be revised to improve readability and take care of necessary "housekeeping" corrections.

Rules Coordinator: Darlene Nelson

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

Rule Caption: Payment regulations to and from unit of government public providers (public entities); and DRA requirements; CMS Moratorium Language.

Date:	Time:	Location:
11-17-08	10:30 a.m.	DHS Bldg., Rm. 166 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010, 409.110 & 409.050

Stats. Implemented: ORS 414.065

Proposed Adoptions: 410-138-0005, 410-138-0007, 410-138-0009

Proposed Amendments: 410-133-0090, 410-133-0100, 410-133-0220, 410-138-0000, 410-138-0020, 410-138-0080, 410-138-0300, 410-138-0320, 410-138-0380, 410-138-0500, 410-138-0520, 410-138-0560, 410-138-0600, 410-138-0620, 410-138-0680, 410-138-0700, 410-138-0720, 410-138-0740, 410-138-0780

Last Date for Comment: 11-28-08

Summary: The School Based Health Services (SBHS) program rules and Targeted Case Management (TCM) program rules govern Division of Medical Assistance Programs' (DMAP) payments for services provided to certain clients. On July 1, 2008 and again on September 22, 2008, DMAP temporarily adopted rules and amended rules. This is Notice to permanently adopt, amend and repeal rules listed above.

These rules will be permanently revised due to the Centers for Medicare and Medicaid Services (CMS) reinterpretation of a federal regulation regarding the timing for payments received by DMAP for the providers' non-federal matching share portion. The permanent

revisions will also assist with coordination and consistency of the payment obligations between DHS and public providers responsible for public funds (called the local match or non federal matching funds) allowable to match federal funds that reimburse covered services.

The TCM program includes CMS Moratorium Language exceptions for definitions, requirements and policies for Case Management/Targeted Case management services provided, that remain in effect under this Moratoria in compliance with the Deficit Reduction Act of 2005.

OAR 410-133-0090 and 410-133-0220 will be permanently revised to define payment for the leveraging process in the interim or delay of the Medicaid Management Information System.

The DMAP TCM program administrative rules are undergoing a complete reorganization. As part of the reorganization, new adopted rules and other amended or repealed rules are to consolidate information, eliminate redundancy, and make the rules more transparent and user friendly for DMAP, providers and the public. Text will be revised to improve readability and take care of housekeeping corrections.

Rules Coordinator: Darlene Nelson

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

Rule Caption: January 2009; to comply with Federal requirements; update Prioritized List.

Date:	Time:	Location:
11-17-08	10:30 a.m.	DHS Bldg., Rm. 166 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010, 409.050, 409.110, 414.065, 414.065 & 442.807

Stats. Implemented: ORS 414.065 & 442.807

Proposed Amendments: 410-141-0120, 410-141-0266, 410-141-0520

Last Date for Comment: 11-28-08

Summary: The Oregon Health Plan Managed Care program administrative rules govern Division of Medical Assistance Programs' (DMAP) payment for services provided to clients. DMAP will amend rules 410-141-0120 and 410-141-0266 to comply with federal requirements and provide better guidance to MCO's ensuring providers are not sanctioned by the U.S. Department of Health and Human Services (DHHS), Centers for Medicare and Medicaid Services (CMS), DHHS Office of Inspector General or Oregon Department of Human Services (DHS). Having temporarily amended 410-141-0520 on October 1, 2008, DMAP will permanently amend the rule to reference the additional interim modifications and technical changes effective October 1, 2008 to the biennial January 1, 2008-December 31, 2009 Prioritized List of Health Services. The October 1, 2008 interim modifications and technical changes include application of 2008 national code to the HSC lines and HSC guideline refinements.

Rules Coordinator: Darlene Nelson

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

Rule Caption: Non-substantive revision to update the date of referenced documents.

Date:	Time:	Location:
11-17-08	10:30 a.m.	DHS Bldg., Rm. 166 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

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

NOTICES OF PROPOSED RULEMAKING

Other Auth.: Title 19 of the Social Security Act, CFR 42 Public Health, OAR 410-120, and 42USC1396a(bb) and 1396d (USC 42, Ch. 7, Subch. 19). Public Law 93 -638. Sec. 1603 of Title 25. <http://www.access.gpo.gov/uscode/uscmain.html>

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-146-0040

Last Date for Comment: 11-28-08

Summary: The American Indian/Alaska Native Services program administrative rules govern Division of Medical Assistance Programs' (DMAP) payment for services provided to certain clients. DMAP will update the year in effect for current procedure code manuals for providers to ensure Oregon Administrative Rules (OARs) are current and accurate. Text will be revised to improve readability and take care of necessary "housekeeping" corrections.

Rules Coordinator: Darlene Nelson

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

Telephone: (503) 945-6927

Rule Caption: Non-substantive revision to update the date of referenced documents.

Date:	Time:	Location:
11-17-08	10:30 a.m.	DHS Bldg., Rm. 166 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.050 & 414.065

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

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-147-0040

Last Date for Comment: 11-28-08

Summary: The Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) Services program administrative rules govern Division of Medical Assistance Programs' (DMAP) payment for services provided to certain clients. DMAP will amend this rule to update the year in effect for current procedure code manuals for FQHC and RHC providers to ensure Oregon Administrative Rules (OARs) are current and accurate. Text will be revised to improve readability and take care of necessary "housekeeping" corrections.

Rules Coordinator: Darlene Nelson

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

Telephone: (503) 945-6927

Rule Caption: Terminology and process changes transitioning to new Medicaid management Information System (MMIS).

Stat. Auth.: ORS 409.010, 409.050, 409.065 & 409.110

Stats. Implemented: ORS 414.025 & 414.065

Proposed Amendments: 410-130-0180

Last Date for Comment: 11-20-08

Summary: The Department is converting to a new computer system called Medicaid Management Information System (MMIS). DMAP will amend 410-130-0180 to change terminology and other process aspects related to MMIS.

Rules Coordinator: Darlene Nelson

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

Telephone: (503) 945-6927

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

Rule Caption: In-Home Services.

Date:	Time:	Location:
11-18-08	3:30 p.m.	Human Services Bldg. 500 Summer St. NE Rm. 137CD Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Other Auth.: 42 CFR 441.302

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Proposed Amendments: Rules in 411-030

Last Date for Comment: 11-20-08, 5 p.m.

Summary: The Department of Human Services, Seniors and People with Disabilities Division (SPD) is proposing to modify the in-home services rules set forth within OAR chapter 411, division 030.

The proposed rules enhance SPD's ability to offer safer in-home services and protect the health, safety and welfare of eligible individuals by:

- Clearly defining the employment responsibilities of an individual, or an individual's representative, for the individual to be eligible to receive in-home services provided by a homecare worker;
- Allowing SPD to address unsafe in-home service plans; and
- Requiring case managers to provide information, choices and resources to individuals desiring in-home services.

In addition, housekeeping changes are being proposed to maintain language consistency.

Rules Coordinator: Christina Hartman

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

Telephone: (503) 945-6398

Rule Caption: Medically Fragile Children Services.

Date:	Time:	Location:
11-17-08	3:30 p.m.	Human Services Bldg. 500 Summer St. NE Rms. 137AB Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340-417.355, 427.005, 427.007 & 430.215

Proposed Adoptions: 411-350-0115

Proposed Amendments: 411-350-0010, 411-350-0020, 411-350-0030, 411-350-0040, 411-350-0050, 411-350-0080, 411-350-0100, 411-350-0110, 411-350-0120

Proposed Repeals: 411-350-0070, 411-350-0090

Proposed Ren. & Amends: 411-350-0060 to 411-350-0118

Last Date for Comment: 11-21-08, 5 p.m.

Summary: The Department of Human services, Seniors and People with Disabilities Division (SPD) is proposing to update the medically fragile children services rules in OAR chapter 411, division 350 to address housekeeping issues, reflect current practice, provide clearer definitions and guidelines specifically around grievances and the hearing process, clarify references to services budgets, expand service levels, and update the clinical criteria to include new medical procedures and needs.

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

NOTICES OF PROPOSED RULEMAKING

Department of Justice Chapter 137

Rule Caption: Clarifies requirements for review and modification of support orders and advance payments of child support.

Stat. Auth.: ORS 180.345 & 416.455

Stats. Implemented: ORS 25.020, 25.080, 25.287, 25.321–25.343, 107.135 & 416.425

Proposed Amendments: 137-055-3420, 137-055-6210

Last Date for Comment: 12-19-08, 5 p.m.

Summary: OAR 137-055-3420 is being amended for two reasons: first, to clarify that a periodic review to ensure compliance with the child support guidelines will be initiated on a support order for a family receiving Temporary Assistance to Needy Families (TANF) when the order is at least 35 months old, rather than 36 months old. This change was proposed during the department's last rule-making, but is being re-noticed to go with the next proposed amendment, which is to clarify that the administrator will (rather than may) initiate a periodic review in a non-TANF case when 35 months have expired since the order took effect or was last reviewed and a party submits a written request for review.

OAR 137-055-6210 is being amended to clarify that the department will collect the amount of any advance payment from the person who received it by removing the amount from the arrears owed to the payee, temporarily-assigned arrears or conditionally-assigned arrears, and assigning that amount to the state as permanently assigned arrears under OAR 137-055-6010.

Rules Coordinator: Carol Riches

Address: 494 State Street, Suite 300 Salem, OR 97301

Telephone: (503) 986-6086

Department of Revenue Chapter 150

Rule Caption: S corporation tax credits; disallowed intercompany transactions; unitary business; estimated taxes; interest rates; withholding reports.

Date:	Time:	Location:
11-24-08	10 a.m.	Fishbowl Conf. Rm. Dept. of Revenue 955 Center St. NE Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 305.100, 305.220, 314.752 & 316.202

Stats. Implemented: ORS 305.220, 314.295, 314.515, 314.752, 316.202 & 317.705

Proposed Amendments: 150-305.220(1), 150-305.220(2), 150-314.295, 150-314.515(2), 150-314.752, 150-317.705(3)(a), 150-316.202(3)

Last Date for Comment: 12-5-08

Summary: 150-314.515(2), *Estimated Tax: Application of Payments*, is amended to clarify the date on which a corporation's payment of estimated tax is applied for purposes of computing an underpayment.

150-314.752, *Business Tax Credits Available to S corporation Shareholders*, is amended to add the Film Production Development Tax Credit to the list of business tax credits that may be claimed by shareholders of an S corporation and to update references to codified statutes.

150-314.295 *Disallowance of Certain Intercompany Transactions Involving Intangible Assets*, is amended to clarify the circumstances in which a deduction for intercompany transactions will be disallowed under ORS 314.295.

150-317.705(3)(a), *Unitary Business*, is amended to adopt provisions of a uniform regulation adopted by the Multistate Tax Commission. That regulation defines the criteria for determining whether corporations constitute a "unitary business" for Oregon tax purposes.

150-305.220(1) *Interest on Deficiencies and Delinquencies*, is amended to reflect that the interest rate charged on deficiencies and

delinquencies decreases from 9% to 6% for interest periods beginning on or after January 1, 2009.

150-305.220(2) *Interest on Refunds*, is amended to reflect that the interest rate paid on refunds decreases from 9% to 6% for interest periods beginning on or after January 1, 2009.

150-316.202(3), *Withholding: Annual Report by Employer*, is amended to provide that certain employers will be required to electronically file withholding reports directly with the Department of Revenue beginning in 2010.

Rules Coordinator: Debra L. Buchanan

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

Telephone: (503) 945-8653

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Rule Caption: Property tax exemptions, tax payments, farm, local budget and appeals programs.

Date:	Time:	Location:
11-24-08	10 a.m.	Fishbowl Conf. Rm. Dept. of Revenue 955 Center St. NE Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 305.100 & 307.459

Stats. Implemented: ORS 294.435, 307.140, 307.455, 308A.056, 308A.059, 309.110, 311.670 & 311.760

Proposed Adoptions: 150-307.455, 150-311.670(1), 150-311.706(1)

Proposed Amendments: 150-294.435(1)-(A), 150-307.140, 150-308A.056

Proposed Repeals: 150-294.435(1)-(B), 150-308A.059

Proposed Ren. & Amends: 150-309.067(1)(b) to 150-309.067(1), 150-309.110(1)-(E) to 150-309.110(A), 150-309.110(1)-(B) to 150-309.110

Last Date for Comment: 12-5-08

Summary: 150-307.455, *Oregon Food Processor Property Tax Exemption* is adopted to provide guidance in claiming an exemption from property tax for certain food processors. The rule explains the certification process, exemption application timeline, late filing fees, and general administration of this exemption. Additionally, the rule defines terms used in statute and the roles of the department and the Department of Agriculture in administering the exemption provisions. The rule is also needed to identify what constitutes a sufficient and timely filing for the Oregon food processors exemption claim, including calculation and payment of the late filing fee if not timely filed.

150-311.670(1) *Requirements for Property to be Entitled to Senior and Disabled Tax Deferral*, provides guidance to taxpayers on how to continue participating in the deferral program after they have left the homestead for reasons of health.

150-311.706(1) *Requirements for Property to be Entitled to Deferral of Special Assessments for Local Improvements*, provides guidance to taxpayers on how to continue participating in the deferral program after they have left the homestead for reason of health.

150-294.435(1)-(A), *Property Taxes Certified*, is amended to delete a reference to another rule that is proposed for repeal, 150-294.435(1)-(B).

150-307.140, *Minimum Review Required in Determining Exempt Status of Property*, is amended to reflect changes made by 2007 legislation (SB 653), which changed ORS 307.112 to also allow a qualified **sublessee** to file a claim for exemption. For example, a religious organization may now sublease property owned by a taxable owner, use it for its religious purposes, and file for the religious property tax exemption. To reflect these recent changes made to 307.112, this rule needs to include additional language to show that a religious organization may apply under ORS 307.112 if it is leasing or subleasing property from a taxable owner.

150-308A.056, *Farm Use Definitions, Inactivity Due to Illness and Description of Lands in Farm Use*, is amended to incorporate

NOTICES OF PROPOSED RULEMAKING

language from OAR 150-308.059. Two rules (OAR 150-308A.056 & 150-308A.059) currently are used to clarify the elements the assessor may use to determine whether land qualifies for farm use special assessment. The language in OAR 150-308A.059 is specific to lands in non-exclusive farm use zones, but the criteria need to apply to both land zoned for exclusive and non-exclusive farm use. For this reason, the language in OAR 150-308A.059 needs to be incorporated into OAR 150-308A.056 so the criteria address both types of farmland. Expands rule to give examples of lands that must be disqualified from farm use special assessment due to “non-farm use”.

150-309.067(1), *Nonoffice-holding Residents Appointed to Board of Property Tax Appeals (BOPTA) Pools*, is amended to add language stating that non-office holding residents appointed under ORS 309.067(1)(a) must meet the criteria of this rule. Modify section 3 to read “An elected official of the county”; Amends Sections (5) & (6) to clarify that people may not serve on the board if they worked in the assessor’s office during the assessment year or tax year that is subject to appeal to BOPTA.

150-309.110-(A), *Board of Property Tax Appeals (BOPTA) Procedures When Roll Changed After Petition is Filed*, explains Board of Property Tax Appeals procedures when a petition has been filed and the assessor subsequently reduces the value of the property. The assessor can reduce the value under ORS 308.242(2) (via stipulation) or under ORS 311.205 (for clerical error), but the rule currently only addresses changes made under ORS 308.242(2). The language of the rule is amended to expressly state that the board will hold a hearing in these situations.

150-309.110, *Department Review of Board Orders*, This rule explains the process used by the department to review Board of Property Tax Appeals (BOPTA) orders if the time which the board can correct the order has passed. Amend rule to align with criteria & procedures outlined in department’s supervisory rule OAR 150-306.115. Remove requirement of the department to issue a decision within 45 days.

150-294.435(1)-(B), *Local Option Levies and September Voter Approval*, is proposed for repeal as being redundant.

150-308A.059, *Description of Lands in Farm Use*, is proposed for repeal as material in the rule is incorporated into OAR 150-308A.056

Rules Coordinator: Debra L. Buchanan
Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301-2555
Telephone: (503) 945-8653

Rule Caption: Military income tax exemptions; substantial understatement penalties; registered domestic partners; credit for other state’s tax.

Date:	Time:	Location:
11-24-08	10 a.m.	Fishbowl Conf. Rm. Dept. of Revenue 955 Center St. NE Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 314.402, 316.007, 316.082 & 316.127
Proposed Adoptions: 150-316.791
Proposed Amendments: 150-314.402(1), 150-314.402(4)(b), 150-316.007-(B), 150-316.082(1)-(B), 150-316.127-(9)
Last Date for Comment: 12-5-08

Summary: 150-316.791, *Compensation for Military Service Performed Away from Home Overnight*, is adopted to define terms related to exemptions from income tax for certain members of the military, including “military service,” “home of the taxpayer” and “away from home.”

150-314.402(1), *Substantial Understatement of Income*, is amended to update references to the Internal Revenue Code.

150-314.402(4)(b), *Computation of Penalty*, is amended to update references to the Internal Revenue Code and to clarify the calculation of the penalty for substantial understatement of income.

150-316.007-(B), *Imputed Income for Domestic Partners*, is amended to conform to enactment of the Oregon Family Fairness Act and to provide guidance to tax benefits available to Registered Domestic Partners.

150-316.082(1)-(B), *Credit for Taxes Paid to Another State When Paid by a Pass-Through Entity*, is amended to clarify the when a deduction for state income taxes must be restored to income on the Oregon income tax return.

150-316.127-(9), *Gross Income of Nonresidents; Retirement Income Derived from Oregon Sources*, is amended to add to the list of retirement plans that are considered qualified for purposes of exempting distributions from Oregon income tax.

Rules Coordinator: Debra L. Buchanan
Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301-2555
Telephone: (503) 945-8653

Department of State Lands Chapter 141

Rule Caption: Removal-Fill Authorizations within Oregon Waters, General Authorizations and Placer Mining in State Scenic Waterways.

Date:	Time:	Location:
11-18-08	8–10 a.m.	DSL, Land Board Rm. 775 Summer St. NE Salem, OR
11-18-08	2–4 p.m.	Douglas Co. Courthouse 1036 SE Douglas, Rm. 310 Roseburg, OR
11-19-08	12–2 p.m.	Bend Public Library Brooks Rm. 601 NW Wall St. Bend, OR

Hearing Officer: Eric Metz
Stat. Auth.: ORS 196.600–196.692, 196.800–196.990 & 390.805–390.925

Stats. Implemented: ORS 196.600–196.692, 196.800–196.990 & 390.805–390.925

Proposed Amendments: 141-089-0100 – 141-089-0615, 141-100-0000 – 141-100-0090

Proposed Ren. & Amends: 141-085-0005 – 141-085-0660 to 141-085-0500 – 141-085-0800

Last Date for Comment: 12-5-08

Summary: The Division 85 rules have been redrafted into plain language to the extent practicable in accordance with ORS 183.750. The agency edited the Division 85 rules into a more succinct and user-friendly format that more closely integrates with actually program operation. The agency is proposing to repeal, in their entirety, the Estuarine Mitigation rules. Mitigation for removal-fill impacts in estuarine areas will be regulated under the general criteria for compensatory wetland and compensatory non-wetland mitigation remaining in the rule. The agency made major substantiate revisions to the sections dealing with with definitions, jurisdiction, exemptions, agency determinations and considerations for evaluating individual permit applications and in the sections concerning compensatory non-wetland and compensatory wetland mitigation. The agency made minor changes in the General Authorization rules in Division 89 to make them consistent with statute and clarify state water quality standards, and conformed the State Scenic Waterway Rules in Division 100 to the sunset on December 31, 2005 of a provision of law allowing recreational placer mining by dredging in state scenic waterways. Since December 31, 2005 the Department of State Lands is no longer authorized by law to issue placer mining permits for dredging in state scenic waterways.

Rules Coordinator: Elizabeth Martino
Address: Department of State Lands, 775 Summer St. NE, Suite 100, Salem, OR 97301-1279
Telephone: (503) 986-5239

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Deletes obsolete language and updates agency name.

Date:	Time:	Location:
11-17-08	1-1:30	DSL Land Board Rm. 775 Summer St. NE Salem, OR

Hearing Officer: Cyndi Wickham

Stat. Auth.: ORS 192 & 273

Stats. Implemented: ORS 192 & 273

Proposed Amendments: 141-091-0005, 141-091-0015

Last Date for Comment: 1-28-08, 5 p.m.

Summary: These rules establish fees for copies and other staff services. The agency is proposing to update these rules by deleting references to services no longer provided by the agency and reference to the agency's Deputy Director, no longer a position filled at DSL and replaces this references to give authority to any of the agency's Assistant Directors to waive the requirement to pay or services in cash at the time of the request.

Rules Coordinator: Elizabeth Martino

Address: Department of State Lands, 775 Summer St. NE, Suite 100, Salem, OR 97301-1279

Telephone: (503) 986-5239

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

Rule Caption: Requirements for the Display of Vehicle Registration Stickers

Date:	Time:	Location:
11-21-08	9 a.m.	Dept. of Transportation 355 Capitol St. NE, Rm. 122 Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 803.560

Stats. Implemented: ORS 803.560

Proposed Adoptions: 735-032-0036

Last Date for Comment: 11-21-08, Close of Hearing

Summary: ORS 803.560 specifies that a person commits the offense of improper display of validating registration stickers if the person owns or drives a vehicle that doesn't display stickers in a manner required by the Department of Transportation. DMV is proposing to adopt OAR 735-032-0036 to set forth the requirements for the display and placement of registration stickers.

Requirements for the display of registration stickers are currently available upon request from DMV and at DMV's website: http://www.oregon.gov/ODOT/DMV/vehicle/plates.shtml#Sticker_Placement

Display requirements are also provided with new registration plates and with registration stickers at the time of initial registration (with new license plates), at registration renewal and when replacement stickers are issued. DMV is clarifying these requirements in rule.

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

Rules Coordinator: Lauri Kunze

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

Telephone: (503) 986-3171

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Rule Caption: Consequences of Violating Conditions of a Hardship or Probationary Permit.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.270 & 813.510

Stats. Implemented: ORS 807.240, 807.270, 813.500 & 813.510

Proposed Amendments: 735-064-0110

Last Date for Comment: 11-21-08

Summary: DMV will revoke a hardship or probationary permit based on information that a person has violated the restrictions or conditions of the permit. DMV may receive a conviction for

violating the permit from a court. Or DMV may receive a report that provides enough information for DMV to determine that the person violated the permit. Such a report may be an accident report, a uniform traffic citation or other specific information that the person drove outside of the permit restrictions or conditions. A person whose revocation of hardship or probationary permit is based on a conviction for violating the conditions or restrictions of the permit is entitled to an administrative review and the revocation remains in effect pending the outcome of the review as stated in Section (5) of this rule. When DMV determines that a person has violated a hardship or probationary permit based upon a report, the person is entitled to a contested case hearing. DMV proposes to amend OAR 735-064-0110 (6) so the proposed revocation of the permit will not go into effect pending the outcome of the hearing to give the person the opportunity to challenge the facts of the report before the revocation goes into effect.

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

Rules Coordinator: Lauri Kunze

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

Telephone: (503) 986-3171

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**Department of Transportation,
Highway Division
Chapter 734**

Rule Caption: Add definition of "used in transportation" to assist in interpreting ORS 377.720(9).

Date:	Time:	Location:
11-18-08	1:30 p.m.	355 Capitol St. NE, Rm. 122 Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 184.616, 184.619, 377.710 & 377.720

Stats. Implemented: ORS 377.720

Proposed Amendments: 734-059-0015

Last Date for Comment: 11-21-08

Summary: Prohibition on signs on vehicles and trailers, and its exception, open to interpretation. More definition will assist public in understanding more definitively what is prohibited and allowed.

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

Rules Coordinator: Lauri Kunze

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

Telephone: (503) 986-3171

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Rule Caption: Description of Process for applying for an outdoor advertising sign permit.

Date:	Time:	Location:
11-18-08	1:30 p.m.	355 Capitol St. NE, Rm. 122 Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 184.616, 184.619, 377.715 & 377.725

Stats. Implemented: ORS 377.715 & 377.725

Proposed Adoptions: 734-060-0000

Last Date for Comment: 11-21-08

Summary: Description of process and requirements for a person to apply for an outdoor advertising sign permit, creating priorities among applicants; making provisions for administrative hearings.

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

Rules Coordinator: Lauri Kunze

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

Telephone: (503) 986-3171

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Rule Caption: Amendment of rule allowing outdoor advertising on transit benches.

NOTICES OF PROPOSED RULEMAKING

Date: 11-18-08
Time: 1:30 p.m.
Location: 355 Capitol St. NE, Rm. 122
Salem, OR

Hearing Officer: Staff
Stat. Auth.: ORS 184.616, 184.619 & 377.735
Stats. Implemented: ORS 377.735
Proposed Amendments: 734-060-0010
Last Date for Comment: 11-21-08

Summary: Rule has not been amended in 15 years, needs updating to reflect changes in sign program and modernize requirements.

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

Rules Coordinator: Lauri Kunze
Address: Department of Transportation, Highway Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301
Telephone: (503) 986-3171

Rule Caption: Amendment of rule regarding the permit exemption for Signs of a Governmental Unit.

Date: 11-18-08
Time: 1:30 p.m.
Location: 355 Capitol St. NE, Rm. 122
Salem, OR

Hearing Officer: Staff
Stat. Auth.: ORS 184.616, 184.619 & 377.735
Stats. Implemented: ORS 377.735
Proposed Amendments: 734-060-0105
Last Date for Comment: 11-21-08

Summary: General updating; specifying process for applicant to request the exemption.

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

Rules Coordinator: Lauri Kunze
Address: Department of Transportation, Highway Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301
Telephone: (503) 986-3171

Rule Caption: Amendment of rule describing permit exemption for temporary signs.

Date: 11-18-08
Time: 1:30 p.m.
Location: 355 Capitol St. NE, Rm. 122
Salem, OR

Hearing Officer: Staff
Stat. Auth.: ORS 184.616, 184.619 & 377.735
Stats. Implemented: ORS 377.735
Proposed Amendments: 734-060-0175
Last Date for Comment: 11-21-08

Summary: General updating; added provision for variance for time; described process for applying for variance.

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

Rules Coordinator: Lauri Kunze
Address: Department of Transportation, Highway Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301
Telephone: (503) 986-3171

Rule Caption: Amendment of rule describing permit exemption for public convenience and safety signs.

Date: 11-18-08
Time: 1:30 p.m.
Location: 355 Capitol St. NE, Rm. 122
Salem, OR

Hearing Officer: Staff
Stat. Auth.: ORS 184.616, 184.619 & 377.735
Stats. Implemented: ORS 377.735
Proposed Amendments: 734-060-0185
Last Date for Comment: 11-21-08

Summary: General updating.

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

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Highway Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301
Telephone: (503) 986-3171

Rule Caption: ODOT intends to amend rules describing maximum allowed vehicle combination length on certain Oregon highways.

Stat. Auth.: ORS 184.616, 184.619, 810.050 & 810.060
Stats. Implemented: ORS 810.060 & 818.220

Proposed Amendments: 734-071-0010

Last Date for Comment: 11-21-08

Summary: These rules describe the maximum vehicle combination length allowed without a variance permit for certain Oregon highways. The proposed revision was requested by the Oregon Refuse & Recycling Association, citing a member's need for flexibility in the rule that authorizes operation of a combination of vehicles that exceed the statutory length limits. The member contends that a vehicle combination it utilizes, a truck-tractor and 47 foot semi-trailer combination, can be equipped with an auxiliary axle that will allow the combination to track and maintain its lane of travel on a highway that currently requires a variance permit for operating a combination that includes a trailer over 40 feet in length. The proposed amendments would require a motor carrier to prove to the satisfaction of ODOT that the combination can be operated safely with no adverse impact to the infrastructure before it is approved. The combination of vehicles would continue to be subject to overall combination length limits. Other revisions update map revision dates.

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

Rules Coordinator: Lauri Kunze
Address: Department of Transportation, Highway Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301
Telephone: (503) 986-3171

Department of Transportation, Motor Carrier Transportation Division Chapter 740

Rule Caption: Limit who may apply for a PIN to transact business with ODOT on behalf of a motor carrier.

Stat. Auth.: ORS 184.616, 184.619, 802.012 & 825.212
Stats. Implemented: ORS 802.012 & 825.212

Proposed Amendments: 740-015-0020, 740-015-0040

Last Date for Comment: 11-21-08

Summary: ORS 802.012 allows ODOT to adopt rules for acceptance and verification by electronic means of information customarily provided on paper forms. Division 15 rules define the term "motor carrier" to include...*any agent or person authorized by the motor carrier to conduct business on behalf of the motor carrier.* The rules also limit who may apply for and receive a PIN to transact business electronically with ODOT to, *an owner, partner, corporate officer, manager (if LLC), or Agent* of a motor carrier. This allows people other than those who are owners or managers of motor carriers to obtain direct access to transact business electronically with ODOT on behalf of that motor carrier.

ODOT's MCTD proposes to amend OAR 740-015-0020 and OAR 740-015-0040 to further limit who may apply for a PIN to transact business electronically with ODOT on behalf of a motor carrier. This access will be limited to responsible officials of a motor carrier or trucking company. The need for this change is not based on any pattern of abuse, but rather a proactive desire to improve business practice. Accepting an application for a PIN to conduct a wide range of business transactions electronically with ODOT from someone other than a responsible official of that motor carrier affected seems a poor business practice because it separates authority from responsibility. Limiting direct access to owners, partners, corporate officers and managers (if LLC) retains authority in the hands of the people responsible for that motor carrier.

NOTICES OF PROPOSED RULEMAKING

By changing the definition of "motor carrier" to except agents for the purposes of applying for or receiving a PIN, and by eliminating the eligibility of Agents to receive a PIN, authority to transaction business electronically with ODOT and responsibility for what transpires are appropriately matched. Agents would still be able to obtain access to use Trucking Online on behalf of a motor carrier, but that access would be in the control of responsible officials of the motor carrier rather than something the agent could do on his or her own.

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

Rules Coordinator: Lauri Kunze

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

Telephone: (503) 986-3171

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Department of Transportation, Rail Division Chapter 741

Rule Caption: Railroad-Highway Crossing Rules.

Date:	Time:	Location:
11-17-08	2 p.m.	355 Capitol St. NE, Rm. 122 Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.212

Stats. Implemented: ORS 824.200

Proposed Adoptions: 741-100-0005, 741-100-0040, 741-200-0075

Proposed Amendments: 741-100-0020, 741-100-0030, 741-110-0020, 741-110-0030, 741-110-0040, 741-110-0050, 741-110-0060, 741-110-0070, 741-110-0080, 741-110-0090, 741-115-0030, 741-115-0040, 741-115-0060, 741-115-0070, 741-120-0020, 741-120-0040, 741-200-0010, 741-200-0040

Proposed Repeals: 741-105-0010, 741-105-0020, 741-105-0030, 741-125-0020

Last Date for Comment: 11-21-08

Summary: Certain rules are being adopted to add new definitions and clarification of regulations. Other rules are being amended to comply with MUTCD or to reduce confusion over the temporary closure of crossings to perform necessary maintenance activities. Other rules are being repealed because they are unnecessary.

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

Rules Coordinator: Lauri Kunze

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

Telephone: (503) 986-3171

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Employment Department Chapter 471

Rule Caption: Revised rule to clarify the order in which payments are applied.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657

Proposed Amendments: 471-031-0072

Last Date for Comment: 11-22-08

Summary: Revised rule to clarify the order in which payments are applied to delinquent tax debts and to limit the definition of legal fees.

Rules Coordinator: Janet Orton

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

Telephone: (503) 947-1724

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Rule Caption: Clarifies "good cause" as used in ORS 657.457, 657.552 and 657.663.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657

Proposed Amendments: 471-031-0151

Last Date for Comment: 11-22-08

Summary: Clarifies "good cause" as used in ORS 657.457, 657.552 and 657.663. Outlines acceptable documentation to serve as good cause for failure to file reports or pay tax.

Rules Coordinator: Janet Orton

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

Telephone: (503) 947-1724

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Rule Caption: Defines "shopping news" as used in ORS 657.080.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657

Proposed Adoptions: 471-031-0190

Last Date for Comment: 11-22-08

Summary: Makes the public aware of the definition of "shopping news" as used in ORS 657.080.

Rules Coordinator: Janet Orton

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

Telephone: (503) 947-1724

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Rule Caption: Defines "horticultural commodity" as used in ORS 657.045.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657

Proposed Adoptions: 471-031-0195

Last Date for Comment: 11-22-08

Summary: Makes public aware of the definition of "horticultural commodity" as used in ORS 657.045.

Rules Coordinator: Janet Orton

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

Telephone: (503) 947-1724

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Rule Caption: Defines "their equipment" as used in ORS 657.047.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657

Proposed Adoptions: 471-031-0200

Last Date for Comment: 11-22-08

Summary: Makes public aware of the definition of "their equipment" as used in ORS 657.047.

Rules Coordinator: Janet Orton

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

Telephone: (503) 947-1724

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Rule Caption: Clarifies the relationship between cafeteria plans and ORS 657.115.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657

Proposed Adoptions: 471-031-0205

Last Date for Comment: 11-22-08

Summary: Outlines the relationship between cafeteria plans and ORS 657.115.

Rules Coordinator: Janet Orton

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

Telephone: (503) 947-1724

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Rule Caption: Define "risk to the trust fund" as used in ORS 657.507.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657

Proposed Adoptions: 471-031-0210

Last Date for Comment: 11-22-08

NOTICES OF PROPOSED RULEMAKING

Summary: Attempts to clarify questions about the departments authority to demand deposits.

Rules Coordinator: Janet Orton

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

Telephone: (503) 947-1724

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Rule Caption: Defines "spouse" as used in ORS 657.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657

Proposed Adoptions: 471-031-0215

Last Date for Comment: 11-22-08

Summary: Defines "spouse" as used in ORS 657 to have the same meaning as defined in HB 2007, passed by the 2007 Legislature.

Rules Coordinator: Janet Orton

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

Telephone: (503) 947-1724

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Rule Caption: Franchisee must meet an exclusion in 657 when there is payment for services.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657

Proposed Adoptions: 471-031-0220

Last Date for Comment: 11-22-08

Summary: Clarifies the requirement for any individual or business entity under contract as a franchisee to meet an exclusion in 657.

Rules Coordinator: Janet Orton

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

Telephone: (503) 947-1724

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Rule Caption: Defines who may be considered an LLC or LLP member in ORS 657.044(b) & (c).

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657

Proposed Adoptions: 471-031-0225

Last Date for Comment: 11-22-08

Summary: Clarifies the definition for who may be considered a member of a Limited Liability Company or Limited Liability Partnership as used in ORS 657.044(b) and (c).

Rules Coordinator: Janet Orton

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

Telephone: (503) 947-1724

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Rule Caption: Clarification of language for the purposes of 657.506.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657

Proposed Adoptions: 471-031-0230

Last Date for Comment: 11-22-08

Summary: The rule clarifies the language in 657.040. The rule allows for exemption with a written contract that meets the requirements outlined in ORS 657.506. Stipulates that the musician operating as a corporation or LLC are employees of that corporation or LLC if the corporation or LLC is registered with the Secretary of State prior to the engagement and independent of the organization engaging the musician's services.

Rules Coordinator: Janet Orton

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

Telephone: (503) 947-1724

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Rule Caption: Defines "fraud" for the purposes of ORS 657.515(5).

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657

Proposed Adoptions: 471-031-0235

Last Date for Comment: 11-22-08

Summary: The rule defines "fraud" as used in ORS 657.515(5) as willful disregard of the law or of a prior determination, either by the Director or an authorized representative of the department.

Rules Coordinator: Janet Orton

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

Telephone: (503) 947-1724

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Rule Caption: States Employment Department's exemption from Motion for Summary process under the Administrative Procedures Act.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 610

Proposed Adoptions: 471-010-0025

Last Date for Comment: 11-22-08

Summary: Rules states that pursuant to OAR 137-003-0580(4), the Employment Department is exempt from Motion for Summary Determination Process under the Administrative Procedures Act.

Rules Coordinator: Janet Orton

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

Telephone: (503) 947-1724

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Rule Caption: States that witnesses appearing for the Employment Department who are employees of the department are qualified to testify in hearings as to actions taken by the department by virtue of their employment.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657

Proposed Adoptions: 471-010-0045

Last Date for Comment: 11-22-08

Summary: Stipulates that Employment Department staff called to testify in hearings regarding actions taken by the agency are qualified by virtue of their employment with the agency to testify.

Rules Coordinator: Janet Orton

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

Telephone: (503) 947-1724

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Land Conservation and Development Department Chapter 660

Rule Caption: Amended rules under OAR 660, Division 24, interpreting Goal 14 regarding UGB adoption and amendment.

Date:	Time:	Location:
12-4-08	9 .m.	Tillamook Co.Library 1716 3rd St. Tillamook, OR

Hearing Officer: LCDC

Stat. Auth.: ORS 197.040

Other Auth.: Statewide Planning Goals (OAR 660, Division 15)

Stats. Implemented: ORS 195.015 & 195.036; ORS 197.295 to 197.314; 197.610 to 197.650; 197.764

Proposed Amendments: Rules in 660-024, 660-024-0010, 660-024-0040, 660-024-0050, 660-024-0060, 660-024-0070

Last Date for Comment: 12-4-08; written comments due 11-14-08

Summary: These rules will clarify requirements for urban growth boundary (UGB) amendments; provide new "safe harbors" intended to reduce local governments' time and costs in amending a UGB, especially with regard to determination of housing need, housing density and mix, employment need, and related topics. The proposed amendments may clarify application of ORS 197.298, Goal 14, and applicable OAR 660, division 24, rule provisions regarding location analyses for UGB amendments. The proposed amendments would also clarify procedures for LCDC approval of urban growth boundaries in the manner of periodic review in accordance with ORS

NOTICES OF PROPOSED RULEMAKING

197.626, and may clarify procedures in OAR 660, Division 24, regarding UGB adjustments.

The Commission may consider additional rule clarifications or amendments to the UGB process that may be proposed during the public comment period.

Rules Coordinator: Bryan Cruz Gonzalez

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

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

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Rule Caption: Amendment and adoption of administrative rules interpreting statewide planning Goals 10 and 14 to encourage affordable housing.

Date:	Time:	Location:
12-4-08	9 a.m.	Tillamook Co. Library 1716 3rd St. Tillamook, OR

Hearing Officer: LCDC

Stat. Auth.: ORS 197.400

Other Auth.: ORS 195.015, 195.036, 197.309 & 197.610–197.650

Stats. Implemented: ORS 197.295–197.314 & 197.309

Proposed Adoptions: 660-008-0050, 660-008-0060, 660-008-0070, 660-008-0080, 660-008-0090, 660-008-0100

Proposed Amendments: Rules in 660-008 & 660-024

Last Date for Comment: 12-4-08; written comments due 11-14-08

Summary: The proposed new and amended rules are intended to encourage local governments to plan and zone “sites dedicated to affordable housing,” including manufactured dwellings and manufactured dwelling parks. The proposed rules are partially in response to 2007 legislation — House Bill 2096 (2007) — which requires CLCD to report to the 2009 legislature regarding the provision of sites for affordable housing development statewide, including sites for manufactured dwelling parks or mobile home parks, and also requires the department to report “regarding LCDC measures, if any, adopted to streamline land use requirements relating to the expansion of urban growth boundaries (UGBs) so as to provide affordable housing, manufactured dwelling parks and mobile home parks.” The proposed rules would establish “pilot projects” to test new ideas to encourage affordable housing. The proposed rules may make additional changes to housing rules with respect to local government requirements to meet Statewide Goal 10 regarding affordable housing and, as necessary, rules with respect to interpretation of Goal 14 regarding UGB amendment.

Rules Coordinator: Bryan Cruz Gonzalez

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

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

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Rule Caption: Amendment of LCDC rule to clarify review process for wind projects on farmland.

Date:	Time:	Location:
12-4-08	9 a.m.	Tillamook Co. Library 1716 3rd St. Tillamook, OR

Hearing Officer: LCDC

Stat. Auth.: ORS 197.040

Other Auth.: ORS 215.213 & 215.283

Stats. Implemented: ORS 197 & 315

Proposed Amendments: Rules in 660-033

Last Date for Comment: 12-4-08; written comments due 11-14-08

Summary: The proposed amendments to OAR division 33 will clarify the current review process for commercial power generating facilities on farmland by creating a separate category for wind power generation projects at 660-033-0130. The amendments will identify applicable farmlands, set forth a review process and threshold for review, and establish review standards.

Rules Coordinator: Bryan Cruz Gonzalez

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

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

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Landscape Contractors Board Chapter 808

Rule Caption: Clarifies the definition of Plan and Install to match the definition of Install in OAR 808-002-0455; housekeeping.

Date:	Time:	Location:
11-21-08	1 p.m.	Roth’s IGA 1130 Wallace Rd. NW Salem, Oregon

Hearing Officer: Matt Triplett

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.520

Proposed Amendments: 808-002-0780

Last Date for Comment: 11-21-08 5 p.m.

Summary: The proposed amendment to OAR 808-002-0780 is to clarify the definition of Plan and Install to match definition of Install in OAR 808-002-0455.

Rules Coordinator: Kim Gladwill-Rowley

Address: 2111 Front Street NE, Ste. 2-101, Salem OR 97301

Telephone: (503) 378-5909 ext. 223

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Office of Private Health Partnerships Chapter 442

Rule Caption: Provides agency authority to perform criminal background checks for employees, prospective employees and others.

Date:	Time:	Location:
12-5-08	9 a.m.	525 Trade St. SE, Lower level Salem, OR

Hearing Officer: Wanda Davis

Stat. Auth.: ORS 735.707

Other Auth.: HB 2252

Stats. Implemented: ORS 735.700–735.714

Proposed Adoptions: 442-001-0050, 442-001-0060, 442-001-0070, 442-001-0080, 442-001-0090, 442-001-0100, 442-001-0110, 442-001-0120, 442-001-0130, 442-001-0140, 442-001-0150, 442-001-0160

Proposed Amendments: 442-001-0000, 442-001-0005

Proposed Repeals: 442-001-0010, 442-001-0015

Last Date for Comment: 12-12-08

Summary: Implements authority given by HB 2252 to perform criminal background checks on current and/or future employees, contractors, volunteers, and vendors. Also cleans up language for readability and understandability by applying plain language guidelines.

Rules Coordinator: Cindy Bowman

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

Telephone: (503) 378-4674

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Oregon Commission on Children and Families Chapter 423

Rule Caption: Modify and adopt temporary rule to clarify 2.0 FTE requirement.

Date:	Time:	Location:
11-14-08	1 p.m.	530 Center St. NE, Suite 405 Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 417.705–417.797

Stats. Implemented: ORS 417.705–417.797

Proposed Amendments: 423-010-0023

Last Date for Comment: 11-14-08

Summary: The rule amendment clarifies the use of the Basic Capacity allocation for staffing local commissions on children and families. The rule clarifies the intent of the minimum 2.0 FTE requirement. The role and desired responsibility level of the Local Commission Director is addressed in the amended rule.

NOTICES OF PROPOSED RULEMAKING

The amended rule also clarifies how local commission may claim reimbursement from Title XIX for the administration of the Title XIX Medicaid Administrative Claiming claims for reimbursement.

Rules Coordinator: Marsha Clark

Address: Oregon Commission on Children and Families, 530 Center St. NE, Suite 405, Salem, OR 97301

Telephone: (503) 373-1283

.....
Oregon Department of Education
Chapter 581

Rule Caption: Prescribes requirements for school district relating to prevention and identification of child abuse.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 339.370, 339.372, 339.375 & 339.377

Proposed Adoptions: 581-022-0711

Last Date for Comment: 11-28-08, 5 p.m.

Summary: State law requires all school employees to report suspected child abuse to law enforcement, the Department of Human Services or a designee of the department. In addition, school employees must also report suspected child abuse to the employees supervisors or other persons designated by the school board.

State law also requires school boards to adopt policies on the reporting of child abuse. School districts are also required, upon request, to provide records of suspected child abuse by school employees or former employees to law enforcement, the Department of Human Services and the Teacher Standards and Practices Commission.

In 2007 Senate Bill 380 amended state law to require school districts to provide training in identification and prevention strategies and for disseminating these strategies to employees, parents and community members and students.

The rule places the requirements relating to the identification and prevention of child abuse into rule division 22 and makes the requirements a part of the required standards for school districts.

Rules Coordinator: Paula Merritt

Address: 255 Capital St NE, Salem 97310

Telephone: (503) 947-5746

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Rule Caption: Prescribes requirements for school districts relating to administration of Oregon Statewide Assessments.

Stat. Auth.: ORS 326.051 & 329.075

Stats. Implemented: ORS 329.075 & 329.485

Proposed Amendments: 581-022-0610

Last Date for Comment: 11-28-08, 5 p.m.

Summary: The test administration and security requirements described in the proposed revisions to OAR 581-022-0610 are based on existing policies and procedures. By putting these test administration and security requirements into rule, ODE hopes to clarify its communication of these requirements to school districts, thereby facilitating the school districts compliance with these requirements.

Rules Coordinator: Paula Merritt

Address: 255 Capital St NE, Salem 97310

Telephone: (503) 947-5746

.....
Oregon Investment Council
Chapter 171

Rule Caption: Repeal of Divestiture Rule.

Stat. Auth.: ORS 293.830–293.870

Stats. Implemented:

Proposed Repeals: 171-010-0000 – 171-010-0045

Last Date for Comment: 11-24-08

Summary: These rules date from 1987 and pertain to divestiture of investments of state moneys in business firms and financial institutions with close ties to South Africa and Namibia. The related ORS have been repealed, therefore the rules are no longer needed.

Rules Coordinator: Sally Wood

Address: Oregon Investment Council, 350 Winter St. NE, #100, Salem, OR 97301

Telephone: (503) 378-4990

.....
Oregon Liquor Control Commission
Chapter 845

Rule Caption: Adopt rule creating look-back provision for determining small winery privilege tax exemption.

Stat. Auth.: ORS 471, 473, 471.030, 471.730(1), (3) & (5) & 471.020

Stats. Implemented: ORS 473.050

Proposed Adoptions: 845-010-0154

Last Date for Comment: 11-14-08

Summary: This rule will describe the time periods that apply when determining if a wine manufacturer meets the small winery definition for purposes of tax exemption. ORS 473.050(5) states that no tax shall be levied, collected, or imposed upon the first 40,000 gallons of wine sold “annually” for wineries producing less than 100,000 gallons “annually.” Currently licensees must anticipate their production a year in advance to determine their privilege tax liability. If they inadvertently exceed the production limitation by even 1 gallon, they have to go back as much as 12 months and calculate the tax due as well as the associated penalty and interest. Staff is recommending adoption of a new rule providing for a look-back period to determine tax exemption rather than looking ahead. Except for the first year of a wine manufacturer’s production, the tax exemption will be applied to the first 40,000 gallons in the current calendar year if production was less than 100,000 gallons in the previous calendar year. This new rule would prevent the imposition of penalties and interest on small wineries in the year their production exceeds the 100,000 gallon threshold.

Rules Coordinator: Jennifer Huntsman

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

Telephone: (503) 872-5004

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Oregon Public Employees Retirement System
Chapter 459

Rule Caption: Rulemaking to comply with section 105 of the HEART Act of 2008.

Date:	Time:	Location:
11-25-08	2 p.m.	PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650, 238A.450 & 243.470

Stats. Implemented: ORS 238.005, 238.300, 238A.005, 238A.025, 238A.140, 238A.330, 238A.335, 243.401–243.507 & 2007 OL Ch. 769

Proposed Amendments: 459-005-0001, 459-010-0014, 459-050-0075, 459-050-0077, 459-070-0001, 459-075-0150

Last Date for Comment: 1-14-09

Summary: On June 17, 2008, the Heroes Earnings Assistance and Relief Tax (HEART) Act of 2008 became law. The proposed rule modifications implement Section 105 of the Act, dealing with treatment of differential military pay as wages. An employer has the option of continuing to pay either all or a portion of the member’s pay while the member is on military leave. These are called differential wage payments and are treated as compensation for the purpose of making contributions to a retirement plan. This will affect employer reporting and system programming. The provision applies to PERS and OSGP. With respect to OSGP, a member on qualified medical leave is able to take a distribution from their account without separating from their employer. The member cannot make elective contributions to OSGP for six months after the withdrawal.

As authorized in the HEART Act, these rule changes take effect January 1, 2009.

NOTICES OF PROPOSED RULEMAKING

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

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

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Rule Caption: Rulemaking to comply with section 104 of the HEART Act of 2008.

Date:	Time:	Location:
11-25-08	2 p.m.	PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238.156, 238.650, 238A.120, 238A.415, 238A.450 & 243.470
Stats. Implemented: ORS 238.156, 238.320–238.345, 238.435, 243.401–243.507, 238A.140, 238A.235 & 238A.415
Proposed Adoptions: 459-050-0100
Proposed Amendments: 459-011-0100, 459-011-0110, 459-015-0001, 459-015-0055, 459-050-0072, 459-075-0100, 459-076-0001, 459-080-0100
Last Date for Comment: 1-14-09

Summary: On June 17, 2008, the Heroes Earnings Assistance and Relief Tax (HEART) Act of 2008 became law. The proposed rule modifications implement Section 104 of the Act. Section 104(a) of the Act states that if a member dies while performing qualified military service, the plan is required to pay death benefits as if the member had returned from military service and resumed employment. Section 104(b) allows a retirement plan to treat a member who is disabled while performing qualified military service as becoming disabled while employed. A member performing qualified military service who is disabled will probably not be able to return to work with their PERS participating employer and would otherwise be ineligible to elect to make USERRA contributions. The HEART Act allows the plan the option of allowing disability benefit recipients to make a USERRA election and contributions.

As authorized in the HEART Act, these rule changes take effect January 1, 2009.

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

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

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Oregon State Lottery Chapter 177

Rule Caption: Describes new Lottery Raffle game and creates game operating rules.

Date:	Time:	Location:
11-17-08	3–3:30 p.m.	Oregon Lottery 500 Airport Rd. SE Salem, OR

Hearing Officer: Larry Trott
Stat. Auth.: ORS 461
Other Auth.: Oregon Constitution, Article XV, Sect. 4(4)
Stats. Implemented: ORS 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
Proposed Adoptions: 177-069-0000, 177-069-0010, 177-069-0020, 177-069-0030, 177-069-0040, 177-069-0050
Last Date for Comment: 11-17-08, 3:30 p.m.

Summary: The proposed rules describe a new game for the Oregon State Lottery, the Lottery Raffle game, and set forth the game's operating rules.

Rules Coordinator: Mark W. Hohlt
Address: Oregon State Lottery, 500 Airport Rd. SE, Salem, OR 97301-5075
Telephone: (503) 540-1417

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Rule Caption: Clarifies Director's authority to end Scratch-itSM ticket games, repeals general end-of-game rule.

Date:	Time:	Location:
11-17-08	2–2:30 p.m.	Oregon Lottery 500 Airport Rd. SE Salem, OR

Hearing Officer: Larry Trott
Stat. Auth.: ORS 461
Other Auth.: Oregon Constitution, Article
Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
Proposed Adoptions: 177-050-0100
Proposed Amendments: 177-050-0025, 177-050-0027
Proposed Repeals: 177-046-0150
Last Date for Comment: 11-17-08, 2:30 p.m.

Summary: The Oregon Lottery[®] has initiated permanent rulemaking to clarify the Director's authority to end a Scratch-itSM ticket game and establish the time frames for claiming a prize and returning unsold Scratch-itSM tickets when a game ends.

The Lottery proposes to repeal a similar rule in division 46, the general operating rules for Lottery games, because determining an ending date for a game is not applicable to most other Lottery games.

The amendments to OAR 177-050-0025 and OAR 177-050-0027 update references to the new rule.

Rules Coordinator: Mark W. Hohlt
Address: Oregon State Lottery, 500 Airport Rd. SE, Salem, OR 97301-5075
Telephone: (503) 540-1417

.....

Rule Caption: Update division 85 Powerball[®] Rules, adopt changes by national Powerball[®] organization, housekeeping, and insert trademarks.

Date:	Time:	Location:
11-17-08	3:30–4 p.m.	Oregon Lottery 500 Airport Rd. SE Salem, OR

Hearing Officer: Larry Trott
Stat. Auth.: ORS 461
Other Auth.: Oregon Constitution, Article XV, §4(4)
Stats. Implemented: ORS 190.110, 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
Proposed Amendments: 177-085-0000, 177-085-0005, 177-085-0010, 177-085-0015, 177-085-0020, 177-085-0025, 177-085-0030, 177-085-0035, 177-085-0040, 177-085-0045, 177-085-0050, 177-085-0065
Last Date for Comment: 11-17-08, 4 p.m.

Summary: The Oregon State Lottery has initiated permanent rulemaking to amend the above referenced administrative rules. The amendments update the Powerball[®] rules to reflect the changes in the administration of the game including changes in the probability of winning and Power Play[®] multipliers. These changes are necessary to implement changes to the Powerball[®] game rules made by the national organization that administers the multi-state Powerball[®] game. In addition, several of the amendments are for general housekeeping purposes including inserting registered trademarks.

Rules Coordinator: Mark W. Hohlt
Address: Oregon State Lottery, 500 Airport Rd. SE, Salem, OR 97301
Telephone: (503) 540-1417

NOTICES OF PROPOSED RULEMAKING

Oregon State Marine Board Chapter 250

Rule Caption: Motor Restrictions on the South Fork of the Coquille River.

Date:	Time:	Location:
11-17-08	7 p.m.	Medford Public Library 205 S Central Ave. Medford, OR
11-18-08	7 p.m.	North Bend Public Library 1800 Sherman Ave. North Bend, OR

Hearing Officer: Randy Henry

Stat. Auth.: ORS 830

Stats. Implemented: ORS 830.110 & 830.175

Proposed Amendments: 250-020-0064

Last Date for Comment: 11-30-08, 5 p.m.

Summary: Upon request of petitioners, OSMB is proposing to amend the regulation by prohibiting motor boats on the South Fork of the Coquille River in Coos County. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: June LeTarte

Address: 435 Commercial Street NE #400 Salem, OR 97309-5065

Telephone: (503) 378-2617

Oregon State Treasury Chapter 170

Rule Caption: New Rules Affecting Collateralization of Public Funds.

Date:	Time:	Location:
11-25-08	2 p.m.	350 Winter St. NE, Suite 100 Salem, OR 97301

Hearing Officer: Judy Whaley-Fultz

Stat. Auth.: ORS 295.018(1), 295.061(2)(a) & (b) & 295.061(3)

Other Auth.: HB 2901, 2007 Leg. Session

Stats. Implemented: ORS 295

Proposed Adoptions: 170-040-0090, 170-040-0100

Last Date for Comment: 11-25-08

Summary: Rule 170-040-0090 requires weekly filing of treasurer Reports when a bank depository is required to collateralize at 110%.

Rule 170-040-0100 requires submission of a new Treasurer Report when a bank depository's net worth decreases by 10% or more or when its capitalization level decreases.

Rules Coordinator: Sally Wood

Address: Oregon State Treasury, 350 Winter St. NE, Suite 100, Salem, OR 97301

Telephone: (503) 378-4990

Rule Caption: Modification of rules related to the issuance and management of Oregon State and local government bonds.

Date:	Time:	Location:
11-24-08	10 a.m.	350 Winter St. NE, #100 Salem, OR

Hearing Officer: Laura Lockwood-McCall

Stat. Auth.: ORS 286A.005(6)

Other Auth.: ORS 286A.014(4)

Stats. Implemented: ORS 183.355, 285B.320-285B.371, 286A, 286A.005, 286A.015, 286A.025, 286A.095, 286A.130, 286A.132, 286A.615, 287A, 287A.195, 287A.335, 287A.360-287A.380, 287A.634, 287A.640, 328.321-328.356 & 2007 OL Ch. 783 (HB 3265)

Proposed Adoptions: 170-055-0001, 170-060-0001, 170-060-0005, 170-061-0300, 170-061-0400

Proposed Amendments: 170-060-1010, 170-061-0015, 170-061-0020, 170-061-0100, 170-061-0200, 170-062-0000, 170-063-0000, 170-071-0005

Proposed Repeals: 170-055-0005, 170-061-0005

Last Date for Comment: 11-24-08

Summary: Based on the recommendations of the Oregon Law Commission, the 2007 Legislature adopted HB 3265 which modernized and updated a variety of laws related to the issuance and management of both State and local debt in Oregon. These statutory changes were codified in ORS Chapters 286A (for State bonds) and 287A (for all other public bodies' bonds). In general, the proposed rules listed above establish, repeal, or amend existing OARs of the Debt Management Division of the State Treasurer's office to bring them into conformance with ORS Chapters 286A and 287A. One of the above-listed rules, however, OAR 170-061-0015, modifies the fees charged for debt management services provided by the agency. Given that these fees have not been modified for the past 18 years, the revised fee schedule brings fees for services back into alignment with the actual cost of debt management operations.

Rules Coordinator: Sally Wood

Address: Oregon State Treasury, 350 Winter St. NE, Suite 100, Salem, OR 97301

Telephone: (503) 378-4990

Oregon Youth Authority Chapter 416

Rule Caption: Managing offender mail within youth correctional facilities.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C.478, 420A.015, 420.011, 420.014, 420A.025 & 420A.105

Proposed Amendments: 416-440-0015, 416-440-0020, 416-440-0035

Last Date for Comment: 12-21-08, Close of Business

Summary: The rule modifications clarify the offender "correspondence" definition and how the correspondence is received by offenders in youth correctional facilities. The modifications also allow for an appeal process when correspondence is rejected by the agency.

Rules Coordinator: Winifred Skinner

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

Telephone: (503) 373-7570

Parks and Recreation Department Chapter 736

Rule Caption: Amendment to OAR 736-018-0045 for adoption of the Jessie M. Honeyman Memorial State Park Master Plan.

Date:	Time:	Location:
11-24-08	6 p.m.	725 Summer St. NE Rm. 124A Salem, OR

Hearing Officer: Mark Davidson

Stat. Auth.: ORS 390.124 & 390.180

Stats. Implemented:

Proposed Amendments: 736-018-0045

Last Date for Comment: 12-23-08, 5 p.m.

Summary: ORS 39.180(1) authorizes the Director of the Oregon Parks and Recreation Department (OPRD) to adopt administrative rules that establish a master plan for each state park. Accordingly, OPRD is adopting a master plan for Jessie M. Honeyman Memorial State Park. Master Plans for state parks are adopted as state rules under OAR 736-018-0045. The purpose of amending OAR 736-018-0045 is to adopt the new master plan as a state rule.

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

Rules Coordinator: Joyce Merritt

Address: Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301-1266

Telephone: (503) 986-0756

NOTICES OF PROPOSED RULEMAKING

Rule Caption: The Administrative Rules dealing with Rates for services at OPRD are being amended.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.124

Proposed Amendments: 736-015-0006 – 736-015-0040

Last Date for Comment: 12-31-08

Summary: The rules are being amended to include:

(1) A pilot project approved by Department of Administrative Services for a fee for having up to two pets in a yurt overnight;

(2) A housekeeping issue to include established rates for yurts, cabins, tepees, and wagons inadvertently dropped from the rule in a previous revision; and

(3) Other housekeeping corrections as necessary.

Rules Coordinator: Joyce Merritt

Address: Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301-1266

Telephone: (503) 986-0756

Psychiatric Security Review Board Chapter 859

Rule Caption: Adopting new rules for the Juvenile Psychiatric Security Review Board (JPSRB).

Stat. Auth.: ORS 419C.533

Stats. Implemented: ORS 419.520 et seq.

Proposed Adoptions: 859-501-0005, 859-501-0010, 859-510-0005, 859-520-0005, 859-520-0010, 859-520-0020, 859-530-0010, 859-540-0005, 859-540-0010, 859-540-0015, 859-540-0020, 859-540-0025, 859-550-0005, 859-550-0010, 859-550-0015, 859-550-0020, 859-550-0025, 859-550-0030, 859-550-0035, 859-550-0040, 859-550-0045, 859-550-0050, 859-550-0055, 859-550-0060, 859-550-0070, 859-550-0075, 859-550-0080, 859-550-0085,

859-550-0090, 859-550-0095, 859-560-0005, 859-560-0010, 859-560-0015, 859-560-0045, 859-560-0050, 859-570-0005, 859-570-0010, 859-570-0015, 859-570-0020, 859-570-0025, 859-570-0030, 859-570-0035, 859-580-0005, 859-580-0010, 859-580-0015, 859-590-0005, 859-600-0005, 859-600-0020, 859-600-0025

Last Date for Comment: 12-1-08, Close of Business

Summary: Adopting new rules for the Juvenile Psychiatric Security Review Board (JPSRB).

Rules Coordinator: Evangelia King

Address: 600 SW Fifth Avenue, Suite 907, Portland OR 97204

Telephone: (503) 229-5596

Secretary of State, Archives Division Chapter 166

Rule Caption: Updating the general records retention schedule for cities.

Date:	Time:	Location:
11-17-08	9 a.m.	State Archives Bldg. 800 Summer St. NE Salem, OR 97310

Hearing Officer: Connor Edmonds

Stat. Auth.: ORS 192 & 357

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

Proposed Amendments: Rules in 166-200

Last Date for Comment: 12-1-08

Summary: Rule change updates general records retention schedule for cities.

Rules Coordinator: Julie Yamaka

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

Telephone: (503) 378-5199

ADMINISTRATIVE RULES

Board of Chiropractic Examiners Chapter 811

Rule Caption: Add unprofessional conduct language to Certified Chiropractic Assistants rule. Clarifies DCs can order but not perform contrast imaging with radio opaque substances.

Adm. Order No.: BCE 2-2008

Filed with Sec. of State: 10-9-2008

Certified to be Effective: 10-9-08

Notice Publication Date: 5-1-2008

Rules Amended: 811-010-0110

Subject: The current unprofessional conduct language in ORS 684 may be construed to pertain only to chiropractic physicians. This amendment writes similar language on unprofessional conduct into the administrative rule.

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

811-010-0110

Chiropractic Assistants

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

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

(a) The Chiropractic Assistant applicant shall successfully complete a Board approved training course offered by an association, college or otherwise approved person. The initial training course shall be at least six hours in length, four hours of which must be in physiotherapy, electrotherapy and hydrotherapy and must have been completed within the 12 months preceding the application date;

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

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

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

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

(a) Application fee — \$25;

(b) Examination fee — \$35; and

(c) Certification fee — \$50.

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

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

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

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

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

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

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

(a) Renewal fee of \$50; and

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

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

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

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

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

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

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

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

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

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

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

(A) "Sexual relations" means:

(i) Sexual intercourse; or

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

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

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

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

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

(e) Charging a patient for services not rendered;

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

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

(h) Soliciting or borrowing money from patients;

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

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

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

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

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

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

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

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

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

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

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

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

- (u) Claiming any academic degree not actually conferred or awarded;
- (v) Disobeying a final order of the Board; and

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

(x) Receiving a suspension or revocation of a certificate or license for a Chiropractic Assistant, or other license or certificate, by another state based upon acts by the Chiropractic Assistant or applicant that describes acts similar to this section. A certified copy of the record of suspension or revocation of the state making that is conclusive evidence thereof. The service of the Chiropractic Assistant is the direct responsibility of the licensed Chiropractic Physician. Violations may be grounds for disciplinary action against the Chiropractic Physician under ORS 684.100(9).

Stat. Auth.: ORS 684.155

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

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

Bureau of Labor and Industries Chapter 839

Rule Caption: Repeals recently adopted rules pertaining to meal and rest periods.

Adm. Order No.: BLI 29-2008(Temp)

Filed with Sec. of State: 9-22-2008

Certified to be Effective: 9-23-08 thru 3-22-09

Notice Publication Date:

Rules Amended: 839-020-0050

Subject: This rule amendment repeals amendments made to OAR 839-020-0050 relating to meal and rest periods that became effective July 8, 2008, and reinstates the previous language in the rule.

Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-020-0050

Meal and Rest Periods

(1) Except as otherwise provided, every employer shall provide to each employee an appropriate meal period and an appropriate rest period.

(a) "Appropriate meal period" means:

(A) A period of not less than 30 minutes during which the employee is relieved of all duties for each work period of not less than six or more than eight hours. If the work period is seven hours or less, the meal period is to be taken between the second and fifth hour worked. If the work period is more than seven hours, the meal period is to be taken between the third and sixth hour worked; or

(B) A period in which to eat (for each work period of not less than six or more than eight hours) while continuing to perform duties or remain on call, which is not deducted from the employee's hours worked. This is permitted only in those cases where the employer can show that the nature or circumstances of the work prevent the employee from being relieved from all duty.

(C) Where the employer can show that industry practice or custom has established a paid meal period of less than 30 minutes (but no less than 20 minutes) during which employees are relieved of all duty, such industry practice or custom will satisfy the meal period provisions of section (1) of this rule.

(b) "Appropriate rest period" means: A period of rest of not less than ten minutes for every segment of four hours or major part thereof worked in one work period without deduction from the employee's pay. The period of rest must be in addition to and taken separately from the time allowed for the usual meal period. Insofar as feasible, considering the nature and circumstances of the work, such period of rest is to be taken by an employee approximately in the middle of each four hour (or major part thereof) segment. The rest period is not to be added to the usual meal period or deducted from the beginning or end of the work period to reduce the overall length of the total work period.

(A) The provisions of section (1) of this rule regarding appropriate rest periods do not apply when all of the following conditions are met:

(a) The employee is 18 years of age or older; and

(b) The employee works less than five hours in any period of 16 continuous hours; and

(c) The employee is working alone; and

(d) The employee is employed in a retail or service establishment, i.e., a place where goods and services are sold to the general public, not for resale; and

(e) The employee is allowed to leave the employee's assigned station

when the employee must use the restroom facilities.

(2) In the absence of regularly scheduled meal periods and rest periods, it will be sufficient compliance with section (1) of this rule when the employer can show that the employee has, in fact, received the time specified. This is permitted only in those cases where the employer can show that the ordinary nature and circumstances of the work prevent the employer from establishing and maintaining a regularly scheduled meal period and rest period.

(3) For the purposes of 839-020-0050, factors to be considered in determining the nature or circumstances of work which prevent an employee being relieved of all duties or the scheduling of regular meal and rest periods may include, but are not limited to, the following: The safety and health of employees, patients, clients, and the public; availability of other employees to provide relief; qualifications (or lack thereof) of those available to provide relief; costs involved in the shutdown/startup of machinery in continuous-operation industrial processes; intermittent and unpredictable work flow not in the control of the employer/employee; unforeseeable equipment failures, emergencies, acts of nature.

(4) As used in this rule, "work period" means the period between the time the employee begins work and the time the employee ends work, and includes rest periods, and any period of one hour or less (not designated as a meal period) during which the employee is relieved of all duties. Meal periods are not included as part of the work period unless the employee continues to perform duties during the meal period.

(5) The provisions of this section regarding appropriate meal periods and rest periods may be modified by the terms of a collective bargaining agreement if the provisions of the collective bargaining agreement entered into by the employees specifically prescribe rules concerning meal periods and rest periods.

(6) Pursuant to the provisions of ORS 653.261(5), if an employer agrees, an employee may waive a meal period if all of the following conditions are met:

(a) The employee is employed to serve food or beverages, receives tips, and reports the tips to the employee's employer;

(b) The employee is at least 18 years of age;

(c) The employee voluntarily requests to waive the employee's meal periods no less than seven calendar days after beginning employment;

(d) The employee's request to waive the employee's meal periods is in writing and is signed and dated by both the employee and employer;

(e) The employer retains and keeps available to the commissioner a copy of the employee's request to waive the employee's meal period during the duration of the employee's employment and for no less than six months after the termination date of the employee;

(f) The employee is provided with a reasonable opportunity to consume food during any workshift of six hours or more while continuing to work;

(g) The employee is paid for any and all meal periods in which the employee is not completely relieved of all duty;

(h) The employee is not required to work longer than eight hours without receiving a 30-minute meal period in which the employee is relieved of all duty;

(i) The employer makes and keeps available to the commissioner accurate records of hours worked by each employee which clearly indicate whether or not the employee has received a meal period; and

(j) The employer posts a notice provided by the commissioner regarding rest and meal periods in a conspicuous and accessible place where all employees can view it. Notices that comply with this rule are available upon request from the Bureau of Labor and Industries.

(7) The written request to waive the employee's meal periods referred to in subsection (6)(d) of this rule must be made using a form provided by the commissioner in the language used by the employer to communicate with the employee. Written request forms that comply with this rule are available upon request from the Bureau of Labor and Industries.

(8) Either the employer or employee may revoke the agreement for the employee to waive the employee's meal periods by providing at least seven (7) calendar days written notice to the other.

(9) Notwithstanding the provisions of section (8), an employee who has requested to waive meal periods pursuant to sections (6) and (7) of this rule may request to take a meal period without revoking the agreement to waive such periods. Such requests must be submitted in writing to the employee's employer no less than 24 hours prior to the meal period(s) requested.

(10) An employer may not coerce an employee into waiving a meal period.

(11) An employer will be considered to have coerced an employee into waiving the employee's meal period under the following circumstances:

(a) The employer requests or requires an employee to sign a request to waive meal periods;

(b) An employee is required to waive meal periods as a condition of

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employment at the time of hire or at any time while employed;

(c) The employer requests or requires any person, including another employee, to request or require an employee to waive meal periods; or

(d) The employee signs a form requesting to waive meal periods prior to being employed for seven calendar days;

(12) Minors under the age of 18 are not subject to this rule. Rest and meal period requirements for minors under 18 years of age are provided in OAR 839-021-0072.

Stat. Auth.: ORS 183 & 653

Stats. Implemented: ORS 653.261

Hist.: BL 1-1987, f. & ef. 1-12-87; BL 10-1990, f. & cert. ef. 7-26-90; BL 9-1996, f. & cert. ef. 10-8-96; BLI 1-2002, f. & cert. ef. 1-9-02; BLI 41-2007, f. 12-28-07, cert. ef. 1-1-08; BLI 21-2008, f. & cert. ef. 7-8-08; BLI 29-2008(Temp), f. 9-22-08, cert. ef. 9-23-08 thru 3-22-09

Rule Caption: Amends the prevailing rates of wage for the period beginning July 1, 2008.

Adm. Order No.: BLI 30-2008

Filed with Sec. of State: 9-25-2008

Certified to be Effective: 9-25-08

Notice Publication Date:

Rules Amended: 839-025-0700

Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning July 1, 2008.

Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-025-0700

Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in publications of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts in Oregon and Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act* dated July 1, 2008, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning July 1, 2008, and the effective dates of the applicable special wage determination and rates amendments:

(a) Marine Rates for Public Works Contracts in Oregon (effective October 4, 2006).

(b) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective June 6, 2008).

(c) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective June 13, 2008).

(d) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective June 20, 2008).

(e) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective July 4, 2008).

(f) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective July 25, 2008).

(g) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective August 29, 2008).

(h) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective September 19, 2008).

(2) Copies of *Prevailing Wage Rates on Public Works Contracts in Oregon and Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act* dated July 1, 2008, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and are listed in the blue pages of the phone book. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

Stat. Auth.: ORS 279C.815, 651.060

Stats. Implemented: ORS 279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002 f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07; BLI 14-2007, f. 6-27-07, cert. ef. 6-28-07; BLI 15-2007, f. & cert. ef. 6-28-07; BLI 16-2007, f. 6-29-07, cert. ef. 7-1-07; BLI 18-2007, f. 7-10-07, cert. ef. 7-12-07; BLI 21-2007, f. 8-3-07, cert. ef. 8-8-07; BLI 22-2007, cert. & ef. 8-30-07; BLI 23-2007, f. 8-31-07, cert. ef. 9-4-07; BLI 24-2007, f. 9-11-07, cert. ef. 9-12-07; BLI 25-2007, f. 9-19-07, cert. ef. 9-20-07; BLI 26-2007, f. 9-25-07 cert. ef. 9-26-07; BLI 27-2007, f. 9-25-07 cert. ef. 10-1-07; BLI 28-2007, f. 9-26-07 cert. ef. 10-1-07; BLI 31-2007, f. 11-20-07, cert. ef. 11-23-07; BLI 34-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 1-2008, f. & cert. ef. 1-4-08; BLI 2-2008, f. & cert. ef. 1-11-08; BLI 3-2008, f. & cert. ef. 2-21-08; BLI 6-2008, f. & cert. ef. 3-13-08; BLI 8-2008, f. 3-31-08, cert. ef. 4-1-08; BLI 9-2008, f. & cert. ef. 4-14-08; BLI 11-2008, f. & cert. ef. 4-24-08; BLI 12-2008, f. & cert. ef. 4-30-08; BLI 16-2008, f. & cert. ef. 6-11-08; BLI 17-2008, f. & cert. ef. 6-18-08; BLI 19-2008, f. & cert. ef. 6-26-08; BLI 20-2008, f. & cert. ef. 7-1-08; BLI 23-2008, f. & cert. ef. 7-10-08; BLI 26-2008, f. & cert. ef. 7-30-08; BLI 28-2008, f. & cert. ef. 9-3-08; BLI 30-2008, f. & cert. ef. 9-25-08

Rule Caption: Amends the prevailing rates of wage for the period beginning July 1, 2008.

Adm. Order No.: BLI 31-2008

Filed with Sec. of State: 9-29-2008

Certified to be Effective: 10-1-08

Notice Publication Date:

Rules Amended: 839-025-0700

Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning July 1, 2008.

Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-025-0700

Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in publications of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts in Oregon and Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act* dated July 1, 2008, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning July 1, 2008, and the effective dates of the applicable special wage determination and rates amendments:

(a) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective June 6, 2008).

(b) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective June 13, 2008).

(c) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective June 20, 2008).

(d) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective July 4, 2008).

(e) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective July

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25, 2008).

(f) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective August 29, 2008).

(g) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective September 19, 2008).

(h) Amendment to Oregon Determination 2008-02 (effective October 1, 2008).

(i) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective October 1, 2008).

(2) Copies of *Prevailing Wage Rates on Public Works Contracts in Oregon* and *Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act* dated July 1, 2008, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and are listed in the blue pages of the phone book. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

Stat. Auth.: ORS 279C.815, 651.060
Stats. Implemented: ORS.279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00, cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002, f. 6-19-02, cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02, cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04, cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06, cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06, cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07; BLI 14-2007, f. 6-27-07, cert. ef. 6-28-07; BLI 15-2007, f. & cert. ef. 6-28-07; BLI 16-2007, f. 6-29-07, cert. ef. 7-1-07; BLI 18-2007, f. 7-10-07, cert. ef. 7-12-07; BLI 21-2007, f. 8-3-07, cert. ef. 8-8-07; BLI 22-2007, cert. ef. 8-30-07; BLI 23-2007, f. 8-31-07, cert. ef. 9-4-07; BLI 24-2007, f. 9-11-07, cert. ef. 9-12-07; BLI 25-2007, f. 9-19-07, cert. ef. 9-20-07; BLI 26-2007, f. 9-25-07, cert. ef. 9-26-07; BLI 27-2007, f. 9-25-07, cert. ef. 10-1-07; BLI 28-2007, f. 9-26-07, cert. ef. 10-1-07; BLI 31-2007, f. 11-20-07, cert. ef. 11-23-07; BLI 34-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 1-2008, f. & cert. ef. 1-4-08; BLI 2-2008, f. & cert. ef. 1-11-08; BLI 3-2008, f. & cert. ef. 2-21-08; BLI 6-2008, f. & cert. ef. 3-13-08; BLI 8-2008, f. 3-31-08, cert. ef. 4-1-08; BLI 9-2008, f. & cert. ef. 4-14-08; BLI 11-2008, f. & cert. ef. 4-24-08; BLI 12-2008, f. & cert. ef. 4-30-08; BLI 16-2008, f. & cert. ef. 6-11-08; BLI 17-2008, f. & cert. ef. 6-18-08; BLI 19-2008, f. & cert. ef. 6-26-08; BLI 20-2008, f. & cert. ef. 7-1-08; BLI 23-2008, f. & cert. ef. 7-10-08; BLI 26-2008, f. & cert. ef. 7-30-08; BLI 28-2008, f. & cert. ef. 9-3-08; BLI 30-2008, f. & cert. ef. 9-25-08; BLI 31-2008, f. 9-29-08, cert. ef. 10-1-08

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Rule Caption: Amends the prevailing rates of wage for the period beginning July 1, 2008.

Adm. Order No.: BLI 32-2008

Filed with Sec. of State: 10-8-2008

Certified to be Effective: 10-8-08

Notice Publication Date:

Rules Amended: 839-025-0700

Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning July 1, 2008.

Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-025-0700

Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of

Labor and Industries has determined that the wage rates stated in publications of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts in Oregon* and *Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act* dated July 1, 2008, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning July 1, 2008, and the effective dates of the applicable special wage determination and rates amendments:

(a) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective June 6, 2008).

(b) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective June 13, 2008).

(c) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective June 20, 2008).

(d) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective July 4, 2008).

(e) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective July 25, 2008).

(f) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective August 29, 2008).

(g) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective September 19, 2008).

(h) Amendment to Oregon Determination 2008-02 (effective October 1, 2008).

(i) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective October 1, 2008).

(j) Amendments/Corrections to July 1, 2008 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective October 3, 2008).

(2) Copies of *Prevailing Wage Rates on Public Works Contracts in Oregon* and *Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act* dated July 1, 2008, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and are listed in the blue pages of the phone book. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

Stat. Auth.: ORS 279C.815, 651.060
Stats. Implemented: ORS.279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00, cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002, f. 6-19-02, cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02, cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04, cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06, cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06, cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-

ADMINISTRATIVE RULES

07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07; BLI 14-2007, f. 6-27-07, cert. ef. 6-28-07; BLI 15-2007, f. & cert. ef. 6-28-07; BLI 16-2007, f. 6-29-07, cert. ef. 7-1-07; BLI 18-2007, f. 7-10-07, cert. ef. 7-12-07; BLI 21-2007, f. 8-3-07, cert. ef. 8-8-07; BLI 22-2007, cert. & ef. 8-30-07; BLI 23-2007, f. 8-31-07, cert. ef. 9-4-07; BLI 24-2007, f. 9-11-07, cert. ef. 9-12-07; BLI 25-2007, f. 9-19-07, cert. ef. 9-20-07; BLI 26-2007, f. 9-25-07, cert. ef. 9-26-07; BLI 27-2007, f. 9-25-07, cert. ef. 10-1-07; BLI 28-2007, f. 9-26-07, cert. ef. 10-1-07; BLI 31-2007, f. 11-20-07, cert. ef. 11-23-07; BLI 34-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 1-2008, f. & cert. ef. 1-4-08; BLI 2-2008, f. & cert. ef. 1-11-08; BLI 3-2008, f. & cert. ef. 2-21-08; BLI 6-2008, f. & cert. ef. 3-13-08; BLI 8-2008, f. 3-31-08, cert. ef. 4-1-08; BLI 9-2008, f. & cert. ef. 4-14-08; BLI 11-2008, f. & cert. ef. 4-24-08; BLI 12-2008, f. & cert. ef. 4-30-08; BLI 16-2008, f. & cert. ef. 6-11-08; BLI 17-2008, f. & cert. ef. 6-18-08; BLI 19-2008, f. & cert. ef. 6-26-08; BLI 20-2008, f. & cert. ef. 7-1-08; BLI 23-2008, f. & cert. ef. 7-10-08; BLI 26-2008, f. & cert. ef. 7-30-08; BLI 28-2008, f. & cert. ef. 9-3-08; BLI 30-2008, f. & cert. ef. 9-25-08; BLI 31-2008, f. 9-29-08, cert. ef. 10-1-08; BLI 32-2008, f. & cert. ef. 10-8-08

Construction Contractors Board Chapter 812

Rule Caption: Amended for clarity/housekeeping, sets fees for information requests, and apply license application exemption fairly.

Adm. Order No.: CCB 16-2008

Filed with Sec. of State: 9-26-2008

Certified to be Effective: 10-1-08

Notice Publication Date: 9-1-2008

Rules Amended: 812-001-0160, 812-001-0200, 812-003-0260

Rules Repealed: 812-001-0160(T)

Rules Renumbered: 812-001-0300 to 812-012-0140, 812-001-0310 to 812-012-0150

Rules Ren. & Amend: 812-001-0240 to 812-012-0120, 812-001-0305 to 812-012-0145

Subject: OAR 812-001-0160 is amended to clarify the existing agency practice of completing one certification statement for a file or set of documents. Moreover, it will replace with specific fees an indeterminate fee referenced by the current rule. The agency presently charges the specific fees for electronically maintained records. Finally, the rule will make clear that the agency is authorized to charge fees for certain odd-sized reproductions and for the cost of attorney time in segregating exempt and non-exempt records.

812-001-0200 is amended to adopt the revised form to update the cite references from ORS 701.055 to ORS 701.325. ORS 701.055 was renumbered in 2007.

812-001-0240 is amended and renumbered to 812-012-0120. Sections (7) and (8) are amended for consistency and section (9) is added to clarify that only the prime or general contractor must provide a maintenance schedule. The law is unclear and might be read to obligate all subcontractors on the job to provide the schedule. This is not the apparent intent of the legislation.

812-001-0300 is renumbered to 812-012-0140 so that all the items that are duties of a contractor are under division 12, Contractor Duties.

812-001-0305 is amended and renumbered to 812-012-0145, the amendment corrects a cite reference and so that all the items that are duties of a contractor are under division 12, Contractor Duties.

812-001-0310 is renumbered to 812-012-0150 so that all the items that are duties of a contractor are under division 12, Contractor Duties.

812-003-0260 is amended to apply the exemption fairly and not distinguish between business entities. In addition, the rule focuses on whether the companies have securities registered with the federal SEC. If so, the companies are already providing detailed information about their directors, partners, members or others that acquire financial interests greater than 5%.

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

812-012-0120

Maintenance Schedules

(1) A contractor that constructs a new residential structure or zero-lot-line dwelling shall provide a maintenance schedule to the first purchaser or owner of the structure or dwelling. The maintenance schedule will recommend periodic steps that the purchaser or owner should take to prevent moisture intrusion or water damage to the structure or dwelling. The mini-

mum information contained in the maintenance schedule will consist of the information listed below in section (4).

(2) "Moisture intrusion" and "water damage" are defined as follows:

(a) "Moisture intrusion" means water, whether liquid, frozen, condensed or vaporized, that penetrates into a structure or behind the outside cladding of a structure.

(b) "Water damage" means damage or harm caused by moisture intrusion that reduces the value or usefulness of a structure.

(3) Moisture intrusion and water damage may occur, for example, from the following:

(a) Missing or loose roofing materials or flashing;

(b) Window sills or door frames without adequate caulking or weather-stripping;

(c) Lack of caulking in siding, mortar in masonry or grout in exterior ceramic tile installations;

(d) Degraded paint on exterior siding or surfaces;

(e) Overflowing or clogged gutters;

(f) Gutter drains or downspouts that are not a sufficient distance from the structure;

(g) Improper drainage slope next to foundation;

(h) Plant materials too close to the structure or foundation;

(i) Sprinklers that overspray onto the structure or foundation;

(j) Non-working interior ventilation systems.

(4) The recommended maintenance schedule for new residential structures and dwellings, to prevent moisture intrusion and water damage, is as follows:

(a) At least once a year:

(A) Check roof for damaged, loose or missing shingles. Check flashing around roof stacks, vents, skylights, and chimneys and in roof valleys for missing or loose flashing. Repair or replace if necessary.

(B) Check for water stains in the roof of the attic and in the exterior overhangs or soffits. If water stains are present, locate and repair the cause of moisture intrusion.

(C) Check and repair missing mortar in exterior masonry.

(D) Check painted surfaces for cracking, peeling or fading. Repaint if necessary.

(E) Inspect gutters and downspouts for leaks. Repair if necessary. Check alignment of gutters, downspouts and splash blocks to ensure that water is properly diverted away from the structure and foundation. Repair if necessary.

(F) Inspect gutters for debris blockage. Remove debris (for example, tree needles and leaves) from downspouts and gutters.

(G) Check soil around foundation to make sure that it slopes in such a way that water can flow away from the foundation. Fill soil in any areas that have settled around the foundation.

(H) Trim back tree branches, shrubs and other plants to make sure they are not in contact with the structure.

(I) Check landscaping sprinklers to make sure that they are not set so that they will soak siding or form puddles near the foundation. Adjust if necessary.

(b) At least twice a year, check and repair missing, cracked or peeling caulking or weather-stripping around window sills, door frames and in siding gaps.

(c) At least once every two months, check to make sure that interior mechanical ventilation systems (such as bathroom, kitchen and utility room vent fans) are in good working order. Repair if necessary.

(5) Signs of water damage may include, but are not limited to, dampness, staining, mildewing (blackened surfaces with musty smell) and softness in wood members (possible sign of dry rot).

(6) If water damage is discovered, investigation should be made into the source of the water damage. Steps should be taken to repair or replace building components or materials that allowed moisture intrusion leading to the water damage. Additional steps may need to be taken depending on the extent of the water damage.

(7) The maintenance schedule in section (4) contains the minimum information that a contractor that constructs a new residential structure or zero-lot-line dwelling must provide. A contractor may offer a maintenance schedule with additional information, recognizing the uniqueness of each structure and its material components. A contractor may use any form or layout for its maintenance schedule, provided that it contains the information in section (4).

(8) The contractor that constructs a new residential structure or zero-lot-line dwelling shall provide a copy of its maintenance schedule to the first purchaser or owner no later than 60 days after substantial completion of the structure or dwelling, or occupancy of the structure or dwelling, whichever occurs later.

(9) For purposes of this rule, a contractor that constructs a new residential structure or zero-lot-line dwelling refers to the prime or general contractor that contracts with the homeowner or sells to the first purchaser.

ADMINISTRATIVE RULES

Subcontractors that do not have a contractual relationship with the homeowner or first purchaser are not required to deliver a maintenance schedule.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.335

Hist.: CCB 10-2008, f. 6-30-08, cert. ef. 7-1-08; Renumbered from 812-001-0240, CCB 16-2008, f. 9-26-08, cert. ef. 10-1-08

812-012-0140

Requirements for Notice of Compliance with Homebuyer Protection Act

(1) Under ORS 87.007(3), a seller of residential property must deliver a Notice of Compliance with Homebuyer Protection Act on or before the date the sale of the property closes to the purchaser of:

(a) A new single family residence, condominium or residential building; or

(b) An existing single-family residence, condominium or residential building where:

(A) The price for original construction, including but not limited to an addition to the single family residence, condominium or residential building, that is completed within three months prior to the date of the sale of the property is \$50,000 or more; or

(B) The contract price for improvements to the single-family residence, condominium or residential building that are completed within three months prior to the date of the sale of the property is \$50,000 or more.

(2) The seller must deliver the notice required under ORS 87.007(3) on or before the close of the sale of the property.

(3) The notice required under ORS 87.007(3) shall be on the form adopted under OAR 812-001-0200.

(4) Under ORS 87.007(3), a seller of residential property may specify on the Notice of Compliance with Homebuyer Protection Act that ORS 87.007(2) does not apply to the sale of the property if the seller knows that no person may enforce a valid lien against the property because:

(a) The last day to perfect any lien on the property under ORS 87.035 was prior to the date of sale of the property; and

(b) No lien was perfected.

Stat. Auth.: ORS 87.007, 670.310, & 701.235

Stats. Implemented: ORS 87, 87.007, & ch. 701

Hist.: 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; Renumbered from 812-001-0022, CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; Renumbered from 812-001-0300, CCB 16-2008, f. 9-26-08, cert. ef. 10-1-08

812-012-0145

Surety Bond Issued to Protect Purchasers of Residential Property from Lien Claims

A seller of residential property may provide a surety bond to satisfy the requirements of ORS 87.007(2)(c), provided that the bond complies with the following requirements.

(1) The bond must be issued by an insurer authorized or approved to do business in this state.

(2) The bond must be issued on or after the date of completion of the residential property. For purposes of this rule, the "date of completion" shall be determined in accordance with ORS 87.045.

(3) The bond must be issued in an amount of not less than 25 percent of the sales price of the residential property.

(4) The bond shall remain in effect:

(a) Not less than 75 days after the date of completion if no lien is perfected under ORS 87.035 against the residential property; or

(b) If one or more liens are perfected against the residential property within 75 days from the date of completion, until:

(A) All liens are released and the releases recorded;

(B) The seller files a bond or makes a deposit and the seller files the required affidavit under ORS 87.076 to 87.081;

(C) The surety files a bond or makes a deposit and the seller files the required affidavit under ORS 87.076 to 87.081; or

(D) The surety pays the buyer the amount of the lien or the penal sum of the bond, whichever is less.

(5) The bond shall include the following terms and conditions:

"NOW, THEREFORE, the conditions of the foregoing obligation are that if the principal shall not permit any construction lien to be placed upon the subject property; shall obtain the release of all construction liens upon the subject property and have the releases recorded; or shall file a bond or deposit in accordance with ORS 87.076 to 87.081; then this obligation shall be void; otherwise to remain in full force and effect.

"This bond is for the exclusive purpose of paying construction lien obligations encumbering (legal description or address of property) arising out of the sale by principal to (name(s) of purchaser(s)), in compliance with ORS 87.007(2)(c) and OAR 812-012-0145.

"The bond shall be one continuing obligation, and the liability of the surety for the aggregate of any and all claims, which may arise hereunder, shall in no event exceed the penalty on this bond.

"The bond shall remain in effect for not less than 75 days after the date of completion if no lien is perfected under ORS 87.035 against the property; or, if one or more liens are perfected against the property within 75 days from the date of completion, until

(1) all liens are released and the releases recorded; (2) the principal files a bond or makes a deposit and the principal files the required affidavit under ORS 87.076 to 87.081; (3) the surety files a bond or makes a deposit and the surety files the required affidavit under 87.076 to 87.081; or (4) the surety pays the liens."

Stat. Auth.: ORS 87.007, 670.310 & 701.235

Stats. Implemented: ORS 87.007

Hist.: CCB 8-2004, f. & cert. ef. 10-1-04; Renumbered from 812-001-0023, CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; Renumbered from 812-001-0305, CCB 16-2008, f. 9-26-08, cert. ef. 10-1-08

812-012-0150

Letter of Credit Issued to Protect Purchasers of Residential Property from Lien Claims

(1) As used in this rule, "letter of credit" means an irrevocable stand-by letter of credit.

(2) A seller of residential property may provide a letter of credit to satisfy the requirements of ORS 87.007(2)(c), provided that the letter of credit complies with the following requirements.

(a) The letter of credit must be issued by or confirmed by an Oregon state-chartered bank or a federally chartered bank that has an Oregon branch.

(b) The letter of credit must be issued on or after the date of completion of the residential property. For purposes of this rule, the "date of completion" shall be determined in accordance with ORS 87.045.

(c) The letter of credit must be issued in an amount of not less than 25 percent of the sales price of the residential property.

(d) The beneficiary of the letter of credit must be the purchaser of the property.

(e) The letter of credit shall remain in effect:

(A) Not less than 75 days after the date of completion if no lien is perfected under ORS 87.035 against the residential property; or

(B) If one or more liens are perfected against the residential property within 75 days from the date of completion, until:

(i) All liens are released and the releases recorded;

(ii) The seller files a bond or makes a deposit and the seller files the required affidavit under ORS 87.076 to 87.081; or

(iii) The issuing or confirming bank pays the purchaser of the property the amount of the lien or the amount of the letter of credit, whichever is less in accordance with the terms of the letter of credit.

(f) The letter of credit can be called by the purchaser of the property immediately if:

(A) The seller of the property permits any construction lien to be placed upon the property;

(B) The seller of the property fails to obtain the release of all construction liens upon the property and have the releases recorded; or

(C) The seller of the property fails to file a bond or deposit and record the required affidavit under ORS 87.076 to 87.081.

(g) The credit shall be available by presentation of the purchaser of the residential property at sight on the issuing, or confirming, bank when accompanied by a notice of lien filing together with the claim of lien, as provided by ORS 87.039. The credit shall be available within three business days of presentation.

Stat. Auth.: ORS 87.007, 670.310 & 701.235

Stats. Implemented: ORS 87.007

Hist.: CCB 8-2004, f. & cert. ef. 10-1-04; Renumbered from 812-001-0024, CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; Renumbered from 812-001-0310, CCB 16-2008, f. 9-26-08, cert. ef. 10-1-08

812-001-0160

Requests for Information; Charges for Records

(1) The agency shall provide certification of license or non-license relating to a specific entity upon written request and payment of required fee. This certification will include the following information:

(a) License numbers.

(b) Name of licensed entity and any assumed business names on file with the agency.

(c) Type of business entity.

(d) Category of license.

(e) Class of independent contractor license status.

(f) Personal names of owner, partners, joint venturers, members, corporate officers, or trustees.

(g) The dates in the license history and the action that took place on those dates.

(2) The agency may make the following charges for records:

(a) \$20 for each certification that an entity has or has not been licensed with the Construction Contractors Board.

(b) \$20 for certified copies of each file or set of documents certified under one cover or of any other document.

(c) \$5 for the first 20 copies made and 25 cents per page thereafter.

(d) \$20 for duplicate audio recordings of, Board meetings and Appeal Committee meetings.

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(e) \$20 for duplicate audio recordings of a three hour agency hearing or arbitration and \$10 for duplicate audio recordings of each additional 90 minutes or fraction thereof of the hearing or arbitration.

(f) \$10 per half-hour unit or portion of a half-hour unit for researching, copying or preparing records for each request from a person beginning with the 31st minute of research or copying time.

(g) \$40 for an electronic copy of computer-maintained data containing information on CCB licensees.

(h) \$140 for a paper copy of computer-maintained data containing information on CCB licensees.

(i) \$40/month for an electronic copy of computer-maintained data containing information on CCB mailings of application packets, provided once during the month.

(j) \$50/month for electronic copies of computer-maintained data containing information on CCB mailings of application packets, provided on a weekly basis.

(k) \$140/month for a paper copy of computer-maintained data containing information on CCB mailings of application packets, provided once during the month.

(l) \$150/month for a paper copy of computer-maintained data containing information on CCB mailings of application packets, provided on a weekly basis.

(m) \$5 for a 3.5-inch computer disk or compact disk (CD) if documents are stored on the agency's computer system. Requestors may not provide disks for electronic reproduction due to the possibility of computer viruses.

(n) The actual cost for material and equipment used in producing copies of non-standard sized records.

(o) The actual cost for delivery of records, for example, postage, courier fees or the cost of transmitting a facsimile long-distance.

(p) Actual attorney fees charged to CCB for the cost of time spent by its attorney (ordinarily provided by the Oregon Department of Justice) to review public records, redact materials from public records or segregate public records into exempt and nonexempt records. The charge will not include attorney fees incurred in determining the application of ORS 192.410 to 192.505.

Stat. Auth.: ORS 293.445, 670.310 & 701.235

Stats. Implemented: ORS 192.430, 293.445, 701.235 & 701.250

Hist.: 1BB 1-1983, f. & ef. 3-1-83; 1BB 3-1984, f. & ef. 5-11-84; 1BB 3-1985, f. & ef. 4-25-85; BB 3-1987, f. 12-30-87, cert. ef. 1-1-88; BB 2-1988, f. & cert. ef. 6-6-88; BB 2-1989, f. 6-29-89, cert. ef. 7-1-89; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 2-1990, f. 5-17-90, cert. ef. 6-1-90; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 1-1995, f. & cert. ef. 2-2-95; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 1-1996, f. 4-26-96, cert. ef. 5-1-96; CCB 1-1997, f. & cert. ef. 5-15-97; CCB 4-1998, f. & cert. ef. 4-30-98; Administrative correction 7-28-98; CCB 6-1998, f. 8-31-98, cert. ef. 9-1-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 3-1999(Temp), f. & cert. ef. 6-29-99 thru 12-25-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 14-2000, f. & cert. ef. 12-4-00; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 2-2004, f. 2-27-04, cert. ef. 3-1-04; CCB 7-2004, f. 8-26-04, cert. ef. 9-1-04; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 3-2005, f. & cert. ef. 8-24-05; Renumbered from 812-001-0015, CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 6-2006, f. 5-25-06, cert. ef. 6-1-06; CCB 5-2007, f. 6-28-07, cert. ef. 7-1-07; CCB 7-2008, f. 4-28-08, cert. ef. 5-1-08; CCB 15-2008(Temp), f. & cert. ef. 8-1-08 thru 1-27-09; CCB 16-2008, f. 9-26-08, cert. ef. 10-1-08

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 December 20, 2007. 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 December 20, 2007.

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

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

(5) The board adopts the form "Notice of Compliance with Homebuyer Protection Act" (HPA) as revised December 16, 2003.

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

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

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

Hist.: 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

812-003-0260

Application for New License

(1) Each entity must complete an application form prescribed by the agency. Information provided on the form must include, but not be limited to:

(a) Name of business entity, all additional business names, including assumed business names, under which business as a contractor is conducted, and Corporation Division registry numbers (if applicable);

(b) Mailing and location address of the business entity;

(c) Legal name and address (which may be the business address) of:

(A) The owner of a sole proprietorship;

(B) All partners of a general partnership or limited liability partnership;

(C) All joint venturers of a joint venture;

(D) All general partners of a limited partnership;

(E) All corporate officers of a corporation;

(F) All trustees of a trust;

(G) The manager and all members of a manager-managed limited liability company, and, if one or more of the members is a partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph;

(H) All members of a member-managed limited liability company, and, if one or more of the members is a partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph; or

(I) The responsible managing individual designated by the applicant.

(d) Except for a public company, the date of birth and driver license number of:

(A) The owner of a sole proprietorship;

(B) All partners of a general partnership or limited liability partnership;

(C) All joint venturers of a joint venture;

(D) All general partners of a limited partnership;

(E) All corporate officers of a corporation;

(F) All trustees of a trust;

(G) The manager and all members of a manager-managed limited liability company, and, if one or more of the members is a partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph;

(H) All members of a member-managed limited liability company, and, if one or more of the members is a partnership, limited liability partnership, joint venture, limited partnership, corporation, trust or limited liability company, the general partners, venturers, corporate officers, trustees, managers or members of the entity that is a member of the limited liability company that is the subject of this paragraph; or

(I) The responsible managing individual designated by the applicant.

(J) For purposes of this subsection, a "public company" means any business entity that offers securities registered for sale by the federal Securities and Exchange Commission to the general public.

(e) Social security number of the owner of a sole proprietorship or partners, if partners are human beings, in a general partnership;

(f) Class of independent contractor license and employer account numbers as required under OAR 812-003-0250;

(g) License endorsement sought, as provided for under OAR 812-003-0131;

(h) The identification number of the responsible managing individual who has completed the education and passed the examination required under ORS 701.122 or is otherwise exempt under Division 6 of these rules;

(i) The Standard Industrial Classification (SIC) numbers of the main construction activities of the entity;

(j) Names and certification numbers of all certified home inspectors if the entity will do work as a home inspector under ORS 701.350;

(k) For each person described in subsection (1)(c) of this section, the following information if related to construction activities:

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(A) If unsatisfied on the date of application, a copy of a final judgment by a court in any state entered within five years preceding the application date that requires the person to pay money to another person or to a public body;

(B) If unsatisfied on the date of application, a copy of a final order by an administrative agency in any state issued within five years preceding the application date that requires the person to pay money to another person or public body;

(C) If pending on the date of application, a copy of a court complaint filed in any state that alleges that the person owes money to another person or public body; or

(D) If pending on the date of application, a copy of an administrative notice of action issued in any state that alleges that the person owes money to another person or public body.

(I) For each person described in subsection (1)(c) of this section, the following information if related to construction activities;

(A) A copy of a judgment of conviction for a crime listed in ORS 701.098(1)(h), entered within five years preceding the application date; or

(B) A copy of an indictment for a crime listed in ORS 701.098(1)(h), entered within five years preceding the application date.

(C) In addition to documents required in paragraphs (1)(I)(A) and (B) of this section, copies of police reports, parole or probation reports indicating parole or probation officer's name and phone number, and letters of reference.

(m) Independent contractor certification statement and a signed acknowledgment that if the licensee qualifies as an independent contractor the licensee understands that the licensee and any heirs of the licensee will not qualify for workers' compensation or unemployment compensation unless specific arrangements have been made for the licensee's insurance coverage and that the licensee's election to be an independent contractor is voluntary and is not a condition of any contract entered into by the licensee;

(n) Signature of owner, partner, joint venturer, corporate officer, member or trustee, signifying that the information provided in the application is true and correct; and

(2) A complete license application includes but is not limited to:

(a) A completed application form as provided in section (1) of this rule;

(b) The new application license fee as required under OAR 812-003-0140;

(c) A properly executed bond, letter of credit or assignment of savings as required under OAR 812-003-0152, 812-003-0153, or 812-003-0155; and

(d) The certification of insurance coverage as required under OAR 812-003-0200.

(3) The agency may return an incomplete license application to the applicant with an explanation of the deficiencies.

(4) All entities listed in section (1) of this rule that are otherwise required to be registered with the Oregon Corporation Division must be registered with the Oregon Corporation Division and be active and in good standing. All assumed business names used by persons or entities listed in section (1) of this rule must be registered with the Oregon Corporation Division as the assumed business name of the person or entity using that name.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 25.270, 25.785, 25.990, 701.035, 701.050, 701.056, 701.068, 701.073, 701.081, 701.088 & 701.122

Hist.: CCB 9-2004, f. & cert. ef. 12-10-04; CCB 3-2005, f. & cert. ef. 8-24-05; CCB 6-2006, f. 5-25-06, cert. ef. 6-1-06; CCB 8-2006, f. & cert. ef. 9-5-06; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 6-2007, f. 8-29-07, cert. ef. 9-1-07; CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 5-2008, f. 2-29-08, cert. ef. 7-1-08; CCB 6-2008, f. & cert. ef. 3-24-08; CCB 8-2008, f. 4-28-08, cert. ef. 7-1-08; CCB 12-2008, f. 6-30-08, cert. ef. 7-1-08; CCB 16-2008, f. 9-26-08, cert. ef. 10-1-08

Rule Caption: Housekeeping, increased bond requirements adds final orders, and adds violation penalties.

Adm. Order No.: CCB 17-2008

Filed with Sec. of State: 9-26-2008

Certified to be Effective: 10-1-08

Notice Publication Date: 9-1-2008

Rules Amended: 812-005-0210, 812-005-0800

Subject: 812-005-0210 is amended to clarify a phrase and make a parallel to language in separate sections, and Section (5) is added to create and increased bond, letter of credit or cash deposit requirement parallel to that for an unpaid construction debt. The Department of Justice has consistently advised CCB that it may require a bankrupt licensee to post a higher bond as a method of providing for future financial responsibility. This is not a penalty for previously declaring bankruptcy. The proposed rule is consistent with the language in

ORS 701.068(5). The statute authorizes sanctions where the amounts due complaints exceed the bond amount. This change will narrow the issue in a disciplinary proceeding to whether there were DRS orders (paid or unpaid) in an amount in excess of the bond. Payment or discharge of the orders will not longer be significant.

812-005-0800 is amended to correct a cite reference, establish penalties for contractors who work while their license is suspended, and establishes violations for failure to provide the Home Buyer Protection Act form.

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

812-005-0210

Conditions to Require an Increased Bond, Letter of Credit or Cash Deposit

(1) Under ORS 701.085(8) (2005) or 701.068, the agency may require a bond, letter of credit or cash deposit of up to five times the normally required amount, if it determines that a licensee or a current or previous owner, officer or responsible managing individual, as those terms are defined in division 2 of these rules, has:

(a) A history of unpaid final orders consisting of two or more final orders unpaid for longer than thirty (30) days following the date of issuance.

(b) Five or more breach of contract complaints filed under ORS 701.131 to 701.180 by five or more separate complainants within a one-year period from the date of filing of the most recent Dispute Resolution Services complaint.

(c) An unpaid construction debt as defined in ORS 701.005(2) that exceeds the amount of the bond, letter of credit or cash deposit.

(d) Board final orders issued in favor of one or more complainants under ORS 701.145 or 701.146 where the amount that must be paid exceeds the amount of the bond.

(2) The amount of the increased bond, letter of credit or cash deposit required under subsection (1)(a) of this rule must conform to the following schedule:

(a) If the sum of unpaid amounts on final orders exceeds the licensee's most recent bond, letter of credit or cash deposit by less than 50 percent, the agency may require a bond, letter of credit or cash deposit two times the amount required under ORS 701.085 (2005), 701.068 or 701.088.

(b) If the sum of the unpaid final orders exceeds the licensee's most recent bond, letter of credit or cash deposit by 50 percent or more, but less than 100 percent, the agency may require a bond, letter of credit or cash deposit three times the bond, letter of credit or cash deposit amount required under ORS 701.085 (2005), 701.068 or 701.088.

(c) If the sum of unpaid amounts on final orders exceeds the licensee's most recent bond, letter of credit or cash deposit by 100 percent or more, the agency may require a bond, letter of credit or cash deposit in the amount of five times the normal amount required under ORS 701.085 (2005), 701.068 or 701.088.

(3) The amount of increased bond, letter of credit or cash deposit the agency may require under subsection (1)(b) of this rule will be based on the number of complaints filed and the time period that the complaints were received as follows:

(a) Two times the bond, letter of credit or cash deposit amount required under ORS 701.085 if five or more complaints are received in any twelve-month period.

(b) Three times the bond, letter of credit or cash deposit amount required under ORS 701.085 (2005), 701.068 or 701.088 if five or more complaints are received in any six-month period.

(c) Five times the bond, letter of credit or cash deposit amount required under ORS 701.085 (2005), 701.068 or 701.088 if five or more complaints are received in any three-month period.

(4) The amount of the increased bond, letter of credit or cash deposit required under subsection (1)(c) of this rule must conform to the following schedule:

(a) If the sum of the unpaid construction debt exceeds the licensee's most recent bond, letter of credit or cash deposit by less than 50 percent, the agency may require a bond, letter of credit or cash deposit two times the bond, letter of credit or cash deposit amount required under ORS 701.085 (2005), 701.068 or 701.088.

(b) If the sum of the unpaid construction debt exceeds the licensee's most recent bond, letter of credit or cash deposit by 50 percent or more, but less than 100 percent, the agency may require a bond, letter of credit or cash deposit three times the bond, letter of credit or cash deposit amount required under ORS 701.085 (2005), 701.068 or 701.088.

(c) If the sum of the unpaid construction debt exceeds the licensee's most recent bond, letter of credit or cash deposit by 100 percent or more, the agency may require a bond, letter of credit or cash deposit five times the

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bond, letter of credit or cash deposit amount required under ORS 701.085 (2005), 701.068 or 701.088.

(5) The amount of the increased bond, letter of credit or cash deposit required under subsection (1)(d) of this rule must conform to the following schedule:

(a) If the amount of the board final orders exceeds the licensee's most recent bond, letter of credit or cash deposit by less than 50 percent, the agency may require a bond, letter of credit or cash deposit two times the bond, letter of credit or cash deposit amount required under ORS 701.085 (2005), 701.068 or 701.088.

(b) If the amount of the board final orders exceeds the licensee's most recent bond, letter of credit or cash deposit by 50 percent or more, but less than 100 percent, the agency may require a bond, letter of credit or cash deposit three times the bond, letter of credit or cash deposit amount required under ORS 701.085 (2005), 701.068 or 701.088.

(c) If the amount of the board final orders exceeds the licensee's most recent bond, letter of credit or cash deposit by 100 percent or more, the agency may require a bond, letter of credit or cash deposit five times the bond, letter of credit or cash deposit amount required under ORS 701.085 (2005), 701.068 or 701.088.

Stat. Auth.: ORS 670.310, 701.068, 701.085 (2005), 701.088 & 701.235
Stats. Implemented: ORS 701.005, 701.068, 701.085 (2005), 701.088 & 701.094
Hist.: CCB 9-2004, f. & cert. ef. 12-10-04; CCB 2-2005, f. 6-29-05, cert. ef. 7-1-05; Renumbered from 812-003-0170(3)(a)-(c), CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 7-2006, f. & cert. ef. 6-23-06; CCB 9-2006, f. & cert. ef. 9-5-06; CCB 12-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 6-2007, f. 8-29-07, cert. ef. 9-1-07; 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 17-2008, f. 9-26-08, cert. ef. 10-1-08

812-005-0800

Schedule of Penalties

The agency may assess penalties, not to exceed the amounts shown in the following guidelines:

(1) \$600 for advertising or submitting a bid to do work as a contractor in violation of ORS 701.026 and OAR 812-003-0120, which may be reduced to \$200 if the respondent becomes licensed or to \$50 if the advertisement or bid is withdrawn immediately upon notification from the agency that a violation has occurred and no work was accepted as a result of the advertisement or bid; and

(2) \$700 per offense without possibility of reduction for advertising or submitting a bid to do work as a contractor in violation of ORS 701.026 and OAR 812-003-0120, when one or more previous violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(3) \$1,000 per offense for performing work as a contractor in violation of ORS 701.026 when the Board has no evidence that the person has worked previously without having a license and no consumer has suffered damages from the work, which may be reduced to \$700 if the respondent becomes licensed within a specified time; and

(4) \$5,000 per offense for performing work as a contractor in violation of ORS 701.026, when an owner has filed a complaint for damages caused by performance of that work, which may be reduced to \$700 if the contractor becomes licensed within a specified time and settles or makes reasonable attempts to settle with the owner; and

(5) \$5,000 per offense for performing work as a contractor in violation of ORS 701.026, when one or more violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(6) \$500 per offense for failure to respond to the agency's request for the list of subcontractors required in ORS 701.345; and

(7) \$1,000 per offense for hiring an unlicensed subcontractor; and

(8) For failing to provide an "Information Notice to Owners about Construction Liens" as provided in ORS 87.093, when no lien has been filed, \$200 for the first offense, \$400 for the second offense, \$600 for the third offense, \$1,000 for each subsequent offense. Any time a lien has been filed upon the improvement, \$1,000.

(9) Failure to include license number in advertising or on contracts, in violation of OAR 812-003-0120: First offense \$100, second offense \$200, subsequent offenses \$400.

(10) Failure to list with the Construction Contractors Board a business name under which business as a contractor is conducted in violation of OAR 812-003-0260: First offense \$50, second offense \$100, subsequent offenses \$200.

(11) Failure to use a written contract as required by ORS 701.305, \$200; when a claim has been filed, \$400; second and subsequent offenses, \$1,000.

(12) Violation of OAR 812-012-0130(1), failure to provide a Consumer Notification form; \$100 first offense; \$500 second offense; \$1,000 third offense; and \$5,000 for subsequent offenses. Civil penalties shall not be reduced unless the agency determines from clear and convincing evidence that compelling circumstances require a suspension of a por-

tion of the penalty in the interest of justice. In no event shall a civil penalty for this offense be reduced below \$100.

(13) Failure to conform to information provided on the application in violation of ORS 701.046(4), issuance of a \$5,000 civil penalty, and suspension of the license until the contractor provides the agency with proof of conformance with the application and the terms of the application.

(a) If the violator is a limited contractor or residential limited contractor working in violation of the conditions established pursuant to OAR 812-003-0130 or 812-003-0131, the licensee shall be permanently barred from licensure in the limited contractor category or residential limited contractor endorsement.

(b) If the violator is a licensed developer, residential developer or commercial developer working in violation of the conditions established pursuant to ORS 701.005(3), (6) or (13) or 701.042, the licensee shall be permanently barred from licensure in the licensed developer category or residential developer or commercial developer endorsement.

(14) Knowingly assisting an unlicensed contractor to act in violation of ORS Chapter 701, \$1,000.

(15) Failure to comply with any part of ORS Chapters 316, 656, or 657, 701.035, 701.046 or 701.091, as authorized by 701.106, \$1,000 and suspension of the license until the contractor provides the agency with proof of compliance with the statute.

(16) Violating an order to stop work as authorized by ORS 701.225(3), \$1,000 per day.

(17) Working without a construction permit in violation of ORS 701.098, \$1,000 for the first offense; \$2,000 and suspension of CCB license for three (3) months for the second offense; \$5,000 and permanent revocation of CCB license for the third and subsequent offenses.

(18) Failure to comply with an investigatory order issued by the Board, \$500 and suspension of the license until the contractor complies with the order.

(19) Violation of ORS 701.098(1)(k) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public: first offense, \$1,000, suspension of the license or both; second and subsequent offenses, \$5,000, per violation, revocation or suspension of the license until the fraudulent conduct is mitigated in a manner satisfactory to the agency or both.

(20) Engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public by:

(a) Not paying prevailing wage on a public works job; or

(b) Violating the federal Davis-Bacon Act; or

(c) Failing to pay minimum wages or overtime wages as required under state and federal law; or

(d) Failing to comply with the payroll certification requirements of ORS 279C.845; or

(e) Failing to comply with the posting requirements of ORS 279C.840: \$1,000 and suspension of the license until the money required as wages for employees is paid in full and the contractor is in compliance with the appropriate state and federal laws.

(21) Violation of ORS 701.098(1)(k) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public, as described in subparagraphs (19) or (20), where more than two violations have occurred: \$5,000 and revocation of the license.

(22) When, as set forth in ORS 701.098(1)(g), the number of licensed contractors working together on the same task on the same job site, where one of the contractors is licensed exempt under 701.035(2)(b), exceeded two sole proprietors, one partnership, or one limited liability company, penalties shall be imposed on each of the persons to whom the contract is awarded and each of the persons who award the contract, as follows: \$1,000 for the first offense, \$2,000 for the second offense, six month suspension of the license for the third offense, and three-year revocation of license for a fourth offense.

(23) Performing home inspections without being an Oregon certified home inspector in violation of OAR 812-008-0030(1): \$5,000.

(24) Using the title Oregon certified home inspector in advertising, bidding or otherwise holding out as a home inspector in violation of OAR 812-008-0030(3): \$5,000.

(25) Failure to conform to the Standards of Practice in violation of OAR 812-008-0202 through 812-008-0214: \$750 per offense.

(26) Failure to conform to the Standards of Behavior in OAR 812-008-0201(2)-(8): \$750 per offense.

(27) Offering to undertake, bidding to undertake or undertaking repairs on a structure inspected by an owner or employee of the business entity within 12 months following the inspection in violation of ORS 701.355: \$5,000 per offense.

(28) Failure to include certification number in all written reports, bids, contracts, and an individual's business cards in violation of OAR 812-008-0201(4): \$400 per offense.

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(29) Violation of work practice standards for lead-based paint activity pursuant to OAR 812-007-0070; \$5,000 per violation and suspension of the lead-based paint business endorsement for up to one year.

(30) Violation of ORS 279C.590:

(a) Imposition of a civil penalty on the contractor of up to ten percent of the amount of the subcontract bid submitted by the complaining subcontractor to the contractor or \$15,000, whichever is less; and

(b) Imposition of a civil penalty on the contractor of up to \$1,000; and

(c) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to six months for a second offense if the offense occurs within three years of the first offense.

(d) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to one year for a third or subsequent offense if the offense occurs within three years of the first offense.

(31) Violation of ORS 701.315, inclusion of provisions in a contract that preclude a homeowner from filing a breach of contract complaint with the Board: \$1,000 for the first offense, \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(32) Violation of ORS 701.345, failure to maintain the list of subcontractors: \$1,000 for the first offense; \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(33) Violation of 701.098(1)(e), knowingly providing false information to the Board: \$1,000 and suspension of the license for up to three months for the first offense; \$2,000 and suspension of the license for up to one year for the second offense; and \$5,000 and permanent revocation of license for the third offense.

(34) Failing to provide a written contract with the contractual terms provided by ORS 701.305 or OAR 812-012-0110:

(a) On or before December 31, 2008: first offense, a warning letter; second offense, \$500 civil penalty; and third offense, up to \$5,000 civil penalty.

(b) After December 31, 2008: first offense, \$500 civil penalty; second offense, \$2,000 civil penalty; and third offense, up to \$5,000 civil penalty.

(35) Working while the license is suspended if the licensee was required to provide an increased bond under ORS 701.068(5), 701.068(6), or OAR 812-003-0175: revocation.

(36) Working while the license is suspended for any violation of ORS 701.098(4)(a)(A) or 701.098(4)(a)(B): \$5,000 for first offense, and revocation for second or subsequent offense.

(37) Working while the license is suspended for any reason except as otherwise provided for by this rule: revocation.

(38) Failure to comply with ORS 701.106(1)(a); \$1,000 for the first offense, \$5,000 for the second offense; \$5,000 and permanent revocation of CCB license for the third offense.

Stat. Auth.: ORS 183.310 to 183.500, 670.310, 701.235 & 701.992

Stats. Implemented: ORS 87.093, 279C.590, 701.005, 701.026, 701.042, 701.046 & 701.091
Hist.: 1BB 4-1982, f. & ef. 10-7-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0080(13); 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 3-1984, f. & ef. 5-11-84; 1BB 3-1985, f. & ef. 4-25-85; BB 1-1987, f. & ef. 3-5-87, BB 1-1988(Temp), f. & cert. ef. 1-26-88; BB 2-1988, f. & cert. ef. 6-6-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 2-1990, f. 5-17-90, cert. ef. 6-1-90; CCB 3-1990(Temp), f. & cert. ef. 7-27-90; CCB 4-1990, f. 10-30-90, cert. ef. 11-1-90; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 4-1992, f. & cert. ef. 6-1-92; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 3-1996, f. & cert. ef. 8-13-96; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-1999(Temp), f. & cert. ef. 11-1-99 thru 4-29-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 13-2000(Temp), f. & cert. ef. 11-13-00 thru 5-11-01; CCB 2-2001 f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 1-2002(Temp), f. & cert. ef. 3-1-02 thru 8-26-02; CCB 2-2002, f. & cert. ef. 3-1-02; CCB 7-2002, f. 6-26-02 cert. ef. 7-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 6-2004, f. 6-25-04, cert. ef. 9-1-04; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 5-2005, f. 8-24-05, cert. ef. 1-1-06; ; Renumbered from 812-005-0005, CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 2-2006, f. & cert. ef. 1-26-06; CCB 7-2006, f. & cert. ef. 6-23-06; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 4-2007, f. 6-28-07, cert. ef. 7-1-07; CCB 2-2008(Temp), f. & cert. ef. 1-2-08 thru 6-29-08; CCB 5-2008, f. 2-29-08, cert. ef. 7-1-08; CCB 13-2008, f. 6-30-08, cert. ef. 7-1-08; CCB 17-2008, f. 9-26-08, cert. ef. 10-1-08

Department of Administrative Services Chapter 125

Rule Caption: Clarifies that disability benefit calculations for injured PIECP inmates are based on prevailing wage rates.

Adm. Order No.: DAS 7-2008(Temp)

Filed with Sec. of State: 10-15-2008

Certified to be Effective: 10-15-08 thru 4-11-09

Notice Publication Date:

Rules Adopted: 125-160-0020

Rules Amended: 125-160-0010

Subject: Deletes the method for calculating temporary and permanent award benefits from the definitions contained in OAR 125-160-0010 and places that method in a new rule, OAR 125-160-0020, and clarifies that the method for calculating temporary and permanent disability award benefits is based on the "Inmate Hourly Wage Rate." Amends OAR 125-160-0010 to define "Inmate Hourly Wage Rate" as either the prevailing wage for PIECP inmates working in PIECP work programs or the state minimum wage rate for non-PIECP inmates. Amends OAR 125-160-0010 to further define "PIECP" as a Department of Corrections inmate work program certified under the federal Prison Industries Enhancement Certification Program (PIECP) as exempted under 18 USC 1761(c). Amends OAR 125-160-0010 to further define "PIECP work program" as specific inmate work projects that are part of the Prison Industry Enhancement Program.

Rules Coordinator: Yvonne Hanna—(503) 378-2349, ext. 325

125-160-0010

Definitions

As used in chapter 125, division 160, unless the context requires otherwise:

(1) "Awards" or "benefits" include one or more of the following types:

(a) "Death benefit" means the monthly amount of disability award the person deceased from a covered death would have received at a disability rating of 100 percent. Death benefit also includes any payment to the claimant's estate of burial expenses.

(b) "Final benefit or award" means the Department's final notice of all benefits due to claimant. It is normally issued upon claimant's request for reaffirmation or modification of the initial estimate. Benefits do not increase after final award appeal rights are exhausted.

(c) "Initial estimate" means the Department's notice to a claimant that the injury qualifies for permanent disability benefits. It includes the estimate of disability rating and benefits.

(d) "Medical services" means those medications, medical procedures, rehabilitation services, physical aids, and prosthetics that are duly prescribed by the attending physician. Medical Services must be of proven therapeutic value. They must be medically necessary to the process of recovery from the covered injury. They permanently cease when a claimant is medically stationary.

(e) "Permanent disability benefit or award" means the Department's estimated and final calculations of the benefit for a permanent disability from a covered injury.

(f) "Prosthetics benefit" means an amount paid, reserved, or added to permanent disability benefits for the repair or replacement of prosthetics. The cause of repair or replacement must be normal wear and tear or medical need caused by the covered injury and no other cause. The award shall be the Department's estimate of current replacement cost, multiplied by the probability of replacement before age 65, multiplied by the disability rating. Covered prosthetics are only those prescribed by the attending physician and not available over the counter. They must be medically necessary due to the covered injury and no other cause. No prosthetics awards shall be made for pre-existing prosthetics or for glasses, hairpieces, or dentures. Prosthetics benefits shall cease if and when permanent disability award payments cease to be paid or payable for any reason.

(g) "Rehabilitation Services" means physical restorative services prescribed by the attending physician. They must be necessary to recovery from a covered injury. They are part of medical services.

(h) "Temporary disability benefit or award" means the permanent disability award at a disability rating of 100 percent. It is paid only during temporary disability for up to six months after release.

(i) "Training benefit" means any training provided by Corrections during confinement that may improve the chances of employment.

(2) "Authorized work or training assignment" is the duties of, and travel to and from, work or occupational training assigned to the claimant by Corrections. It applies only to assignments during confinement in a facility or institution located within Oregon and operated by Corrections. An assignment begins with the first line movement going to, and ends with the last line movement leaving, the assignment.

(3) "Beneficiary" is a dependent of the claimant who may claim death benefits upon claimant's covered death. Beneficiaries shall meet the following tests:

(a) A beneficiary must, on the date of injury and on the date of covered death, be one of the following, in relationship to the deceased inmate-claimant:

(A) Legal husband or wife of the claimant.

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(B) Child of the claimant. Child includes claimant's natural child, born or unborn, claimant's legally adopted child, stepchild, or other child toward whom the claimant stands in loco parentis.

(C) Father, mother, grandfather, grandmother, stepfather, stepmother, grandson, granddaughter, brother, sister, half sister, half brother, niece or nephew of the claimant.

(b) A beneficiary must also meet the following with regard to the deceased inmate-claimant:

(A) A beneficiary shall have relied upon the claimant for the major part of beneficiary's financial support. He or she shall have done so for the twelve months preceding the date of Corrections confinement, date of injury, or date of covered death. The Department shall select from these three dates the one it deems the most reasonable indicator of dependency under the circumstances.

(B) A beneficiary who is the deceased's child shall not have attained 18 years of age or have married. He or she shall not be legally emancipated and not, since claimant's confinement, have filed for emancipation from the claimant's parenting. He or she shall not have had a court terminate the inmate's parental rights. He or she shall not, since the inmate's confinement, have filed for, or had a parent or legal guardian file for, the termination of the claimant's parental rights.

(C) A beneficiary shall not have terminated nor, since claimant's confinement, applied in any way to terminate the familial, legal relationship of the beneficiary to the claimant.

(D) A beneficiary shall not be divorced from, nor have applied for legal separation or divorce from, the claimant during the period between the claimant's Corrections' confinement and covered death. Divorce or separation shall not bar a beneficiary if the beneficiary also applied for, received, or attempted by process of law, to collect funds from the claimant for support or maintenance throughout that period.

(4) "Claim," "request," or "application" means written requests delivered to the Department claiming benefits due the claimant. Claims shall be on the forms or in the formats set from time to time by the Department. They shall be filed within the times set by these rules.

(5) "Claimant" is an inmate who has filed a claim for benefits claimed to be due to him or her under these rules. As applicable, claimant also includes beneficiaries, legal representatives of inmates' estates, and medical providers. Someone other than the inmate may be a claimant only of benefits due directly to him or her, not to benefits which the inmate may claim.

(6) "Confinement" means the claimant, inmate or beneficiary, is held in the legal and physical custody of any government penal, or other agency or institution, under court order. Confinement stops permanent disability and death benefits.

(7) "Corrections" means the State of Oregon Department of Corrections.

(8) "Corrections Medical Staff" means the physicians, nurses, and medical contractors of Corrections. It includes the medical staff of any penal institution where a claimant is confined when designated by Corrections or the Department to provide medical services under these rules.

(9) "Covered Death" means the claimant's death due, in large part, to a covered injury. A death may be a covered death only if it occurs within one year after the date of injury or if a claim for the covered injury was filed within 90 days of the date of injury and was not denied.

(10) "Covered Disease" means a disease or infection that meets all the following tests:

(a) It is caused in major part by the accidental exposure to substances in the course of authorized work or training assignment. Exposure means ingestion, absorption or inhalation of, or accidental contact with, the substance. Substances include dust, fumes, vapors, gases, radiation and the like. Substances shall only be those to which a worker who is not an inmate is not ordinarily exposed.

(b) It causes damage to physical body tissues or organs.

(c) It requires medical services.

(d) It results in temporary disability lasting at least seven consecutive days, permanent disability, or covered death.

(e) It is not an injury, illness, disease, or condition already awarded compensation by public or private funds.

(f) The Department has found it eligible for benefits under these rules.

(11) "Covered Injury" means that injury which meets all the following tests:

(a) It is accidental.

(b) It causes sudden damage to physical body tissues or organs, or accidental injury to prosthetic devices.

(c) It occurs in the course of, and is caused in major part by, an authorized work or training assignment.

(d) It requires medical services.

(e) It results in temporary disability lasting at least seven days, permanent disability, or covered death.

(f) It is not an injury, illness, disease, or condition already awarded compensation by public or private funds.

(g) The Department has found it eligible for benefits under these rules.

(h) Unless the context clearly requires otherwise, covered injury also includes covered disease.

(12) "Date of injury" means:

(a) For a covered injury, the day on which the accident occurred.

(b) For a covered disease, the earlier of the date of first medical treatment or date of diagnosis of the covered disease. Date of injury shall not be later than two years after the last exposure to the alleged disease-causing substance in the authorized work or training assignment.

(13) "Department" means the Risk Management Division of the Department of Administrative Services. It also means any contractor or agency designated by the Department to perform the Department's duties under these rules.

(14) "Disability" means the attending physician's determination of one of the following from objective medical findings:

(a) "Temporary Disability," the claimant is medically unable, for seven or more consecutive days, to perform substantially all of the customary duties of any employment. This shall be the direct result of a covered injury. Claimant shall not be medically stationary.

(b) "Permanent Disability," the claimant is medically stationary and has a disability rating from the covered injury that will be permanent.

(15) "Disability rating" means the attending physician's determination from objective medical findings of claimant's percent of permanent disability due solely to the covered injury. The rating shall conform to the following:

(a) If the claimant has no pre-existing disabilities or disability awards, the disability rating shall be the claimant's permanent impairment. It shall be found according to the 3rd Revised, or later, edition of the **AMA Guides to the Evaluation of Permanent Impairment**. The physician shall identify the edition used. The disability rating shall be expressed as a percentage of a whole person. If more than one organ system is rated, the percentage of impairment of the whole person shall be combined using the combined values chart in the AMA Guides.

(b) If the claimant has pre-existing disabilities or disability awards, the maximum disability from all sources and causes shall not exceed 100 percent. The Department or the physician shall combine the current disability rating for the covered injury with all prior disabilities and disability awards from any source. The combined values chart in the AMA Guides shall be used. If the combined disability rating exceeds 100 percent, the disability rating for the covered injury shall be reduced to lower the total to 100 percent. The Department shall convert a disability award from any other system to an impairment rating of a whole person when necessary.

(16) "Employment" means claimant's ability, after release from confinement, to seek and perform employment. It shall include any lawful employment which pays at least the then statutory minimum wage of the State of Oregon. It shall be immaterial whether employment is obtained or exists.

(17) "Inmate" is a person committed to the physical and legal custody of Corrections.

(18) "Inmate Hourly Wage Rate," for purposes of calculating benefits under these administrative rules only, means:

(a) For inmates working in PIECP work projects, the Inmate Hourly Wage Rate is the rate established by Oregon Corrections Enterprises in accordance with the annual prevailing hourly wage rate determination completed by the Oregon Department of Employment.

(b) For other inmates, the Inmate Hourly Wage Rate is the state hourly minimum wage established under ORS 653.025.

(19) "Major part" means clearly and substantially more than half of the whole of all causes or contributing factors. Major part does not mean merely disproving factors deemed to be other possible causes.

(20) "Medically Stationary" or "Stationary" means that the attending physician finds that no further material medical improvement would reasonably be expected from medical treatment or the passage of time.

(21) "Physician" means a person licensed, in the state where he or she provides medical services, as a medical doctor, doctor of osteopathy, doctor of optometry, doctor of dentistry or nurse practitioner. All physicians may only provide medical services within the scope of their license. Physician includes one or both of the following:

(a) "Attending physician," Corrections medical staff or other physician authorized in advance by the Department. Attending physicians may diagnose and evaluate injuries and diseases. They may provide or direct medical services to claimants. They may send claimants to medically appropriate specialists for specific treatment, evaluation, advice, or consultation. They determine temporary disabilities, permanent disability ratings, and medically stationary dates.

(b) "Consulting or advisory physician," a physician selected and paid by the Department, Corrections, or the claimant to advise the attending

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physician. The consulting physician shall review the findings of the attending physician or evaluate the claimant to advise whether the claimant is medically stationary, temporarily or permanently disabled, and the degree of disability rating.

(22) "PIECP" means a Department of Corrections inmate work program certified under the federal Prison Industries Enhancement Certification Program (PIECP) as exempted under 18 USC 1761(c) from the federal prohibition against the transport of inmate-produced goods in interstate commerce.

(23) "PIECP Work Project" means a specific inmate work project that is part of the Prison Industry Enhancement Program.

(24) "Release" means the claimant's release from Corrections' confinement. When the context requires, release also means the date of release from any subsequent confinement.

(25) "Substantial evidence" means that all the discovered evidence, taken together, would lead a reasonable fact finder to believe the facts asserted are more probably true than false. When the weight of the evidence is equal to both sides or only slightly greater to the claimant's side, the fact finder shall find against the claimant.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 184.340, 278.405, 655.520 & 655.555
Stats. Implemented: ORS 655.505 - 655.555
Hist.: DASII 2-1995(Temp), f. & cert. ef. 9-28-95; DASII 2-1996, f. & cert. ef. 3-26-96; DAS 7-2008(Temp), f. & cert. ef. 10-15-08 thru 4-11-09

125-160-0020

Calculation of Permanent Disability Awards.

A permanent disability award is calculated as two-thirds of the Inmate Hourly Wage Rate multiplied by the disability rating. The weekly amount is calculated in this manner. The Inmate Hourly Wage Rate, in effect on the date of release, is multiplied by 40, multiplied by .667, and multiplied by the disability rating. To convert to a daily benefit, the weekly amount is divided by seven. To convert to a monthly benefit, the weekly amount is multiplied by 4.35. A prosthetics allowance may be added to the permanent disability award. During confinement, permanent disability and training benefits are entirely limited to any training provided by the Oregon Department of Corrections.

Stat. Auth.: ORS 184.340, 278.405, 655.520 & 655.555
Stats. Implemented: ORS 655.505 - 655.555
Hist.: DAS 7-2008(Temp), f. & cert. ef. 10-15-08 thru 4-11-09

Department of Administrative Services, Capitol Planning Commission Chapter 110

Rule Caption: Amends rules for development standards for adoption of the updated Oregon State Hospital and Penitentiary Properties Area Plan, June 2008.

Adm. Order No.: CPC 6-2008

Filed with Sec. of State: 10-9-2008

Certified to be Effective: 10-11-08

Notice Publication Date: 9-1-2008

Rules Amended: 110-070-0010

Rules Repealed: 110-070-0015, 110-070-0020

Subject: The rule amendment relates to the revision of the rule governing the Adoption of the Oregon State Hospital and Penitentiary Area Plan, formerly known as the Development Standards for the Oregon State Hospital and Penitentiary Properties Area adopted by the Capitol Planning Commission in 1976 and amendment adopted March 1984. The rule revises the current Area Plan adopting a new plan and standards affecting future development and uses in the Oregon State Hospital and Penitentiary Properties Area.

Rules Coordinator: Yvonne Hanna—(503) 378-2349, ext. 325

110-070-0010

Oregon State Hospital and Penitentiary Properties Area Plan

The **Oregon State Hospital and Penitentiary Properties Area Plan, June 2008** is hereby adopted by reference. This Area Plan replaces the Oregon State Hospital and Penitentiary Properties Land Use Plan, 1976, as amended 1983.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 183 & 276
Stats. Implemented:
Hist.: CPC 4-1982, f. & cert. ef. 4-6-82; CPC 1-1983, f. & cert. ef. 11-29-83; CPC 1-1986, f. & cert. ef. 1-29-86; CPC 5-2008(Temp), f. & cert. ef. 7-17-08 thru 12-31-08; CPC 6-2008, f. 10-9-08, cert. ef. 10-11-08

Department of Administrative Services, Office of Business Administration Chapter 121

Rule Caption: Rules for Annual Charitable Fund Drive Program.

Adm. Order No.: BAD 1-2008

Filed with Sec. of State: 9-16-2008

Certified to be Effective: 9-19-08

Notice Publication Date: 8-1-2008

Rules Adopted: 121-030-0090

Rules Amended: 121-030-0000, 121-030-0010, 121-030-0020, 121-030-0030, 121-030-0040, 121-030-0050, 121-030-0060, 121-030-0070, 121-030-0080

Subject: These rules provide a process for planning and managing the Annual Charitable Fund Drive Program and provide a wide range of choices for state employees and retirees from state services who wish to give to charitable organizations and support Oregon communities. The proposed rule changes improve clarity and readability, update participation requirements in existing rules, and add a provision for designation of direct recipients.

Rules Coordinator: Yvonne Hanna—(503) 378-2349, ext. 325

121-030-0000

Annual Charitable Fund Drive Program

(1) The purpose of the Annual Charitable Fund Drive Program is to:

(a) Provide a wide range of choices for state employees and retirees from state service who wish to give to charitable organizations and support Oregon communities;

(b) Encourage volunteer leadership;

(c) Consolidate charitable solicitation and minimize work-place disruption;

(d) Minimize cost to government and charitable organizations in charitable solicitation efforts;

(e) Ensure funds are solicited by qualified funds or federations;

(f) Ensure solicitation is conducted in a voluntary atmosphere.

(2) No organized charitable solicitations of state employees in state offices, facilities or other places of employment shall be permitted without prior approval of the Director of the Department of Administrative Services.

(3) All solicitations by charitable organizations that are approved in accordance with this rule shall be made in one combined annual fund drive for cash contributions or payroll deductions that shall be conducted on dates established by order of the Director of the Department of Administrative Services.

(4) OAR chapter 121, division 30, does not apply to the Governor's Annual Food Drive, the annual Christmas Toys for Joy Program or the Campaign for Equal Justice.

Stat. Auth.: ORS 184.340, 292.045 & 184.305

Stats. Implemented: ORS 292.043, 292.045

Hist.: EX 2-1988(Temp), f. & cert. ef. 7-27-88; EX 1-1989, f. & cert. ef. 1-27-89; EX 1-1990, f. & cert. ef. 5-8-90; EX 3-1990(Temp), f. & cert. ef. 8-3-90; EX 1-1991, f. & cert. ef. 1-28-91; EX 1-1993(Temp), f. & cert. ef. 4-13-93; ASD 1-1993, f. 12-29-93, cert. ef. 1-1-94; BAD 2-2002, f. & cert. ef. 7-30-02; BAD 1-2008, f. 9-16-08, cert. ef. 9-19-08

121-030-0010

Definitions

As used in OAR 121-030-0000 through 121-030-0090:

(1) "Charitable Organization" means either:

(a) A nonprofit organization that is recognized as a 501(c)(3) organization under the Internal Revenue Code and is registered as a charitable organization with the Attorney General as required by ORS 128.610 to 128.995, or;

(b) A state-created nonprofit fund that receives donations, which may be deducted from taxable income as "charitable contributions" under Section 170(a) and (c) of the Internal Revenue Code.

(2) "Fund" means an entity that disburses charitable contributions to ten or more charitable organizations.

(3) "Federation" means an entity that serves as the agent for a group of at least ten charitable organizations.

(4) "Local Presence" means a demonstrated presence in the State of Oregon as evidenced by the provision of direct and substantial charitable services or activities benefiting Oregonians in Oregon throughout the previous calendar year.

(5) "Charitable Fund Drive Management Organization" means the person or organization selected to administer the annual Charitable Fund Drive on behalf of all participating funds and federations.

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(6) "Charitable Fund Drive Committee" or "Committee" means the committee appointed to set policies and implement the Charitable Fund Drive Program for state employees.

(7) A "conflict of interest," whether actual or potential, means any action, decision or recommendation, the effect of which would be or could be to the pecuniary benefit or detriment of a fund, federation or associated charitable organization.

(8) "Department" means the Department of Administrative Services.

(9) "Director" means the Director of the Department of Administrative Services.

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

Stat. Auth.: ORS 184.340, 292.045 & 184.305

Stats. Implemented: ORS 292.043, 292.045

Hist.: ASD 1-1993, f. 12-29-93, cert. ef. 1-1-94; BAD 1-2008, f. 9-16-08, cert. ef. 9-19-08

121-030-0020

Charitable Fund Drive Committee

(1) The Charitable Fund Drive Committee shall be composed of seven members, all of whom must be employees of the State of Oregon.

(2) The Director shall appoint members who:

(a) Reflect the diversity of employees including, but not limited to, geography, race, gender, age, chosen profession, disability, and agency affiliation;

(b) Have skills in the following areas:

(A) Marketing;

(B) Fundraising;

(C) Organizational skills;

(D) Accounting; and

(E) Payroll.

(3) The Director will appoint members to serve a term of one to three years.

(4) No member may serve more than two consecutive terms.

(5) No member shall take any action that creates a conflict of interest with respect to any fund, federation, or affiliated charitable organization that the member is associated with in a leadership capacity.

(6) The Director will appoint one member as chair. The Governor shall be the honorary chair.

(7) The responsibilities of the Committee are to:

(a) Implement OAR 121-030-0000 to 121-030-0090 and propose changes for adoption by the Director as necessary;

(b) Establish and enforce policies and procedures for managing the Charitable Fund Drive, recommending any rules for the Director's adoption;

(c) Prescribe, review and approve initial and renewal applications of funds and federations;

(d) Select, supervise, and establish guidelines for the Charitable Fund Drive Management Organization;

(e) Ensure the funds and federations have equal access to state resources;

(f) Provide and communicate fund drive information to state agencies and fund drive participants;

(g) Ensure the fund drive is free from coercion and unfair or misleading conduct;

(h) Approve budget and costs and ensure funds are properly accounted for;

(i) Hear grievances of funds and federations; and

(j) Prepare and distribute requests for proposals to be used in evaluating and selecting the Charitable Fund Drive Management Organization and make a final recommendation to the Director.

Stat. Auth.: ORS 184.340, 292.045 & 184.305

Stats. Implemented: ORS 184.340, 292.045 & 184.345

Hist.: ASD 1-1993, f. 12-29-93, cert. ef. 1-1-94; BAD 1-1998(Temp), f. & cert. ef. 6-25-98 thru 8-31-98; BAD 2-1998, f. 12-17-98, cert. ef. 12-24-98; BAD 1-2008, f. 9-16-08, cert. ef. 9-19-08

121-030-0030

Quorum

A majority of the members of the Charitable Fund Drive Committee constitutes a quorum for the transaction of business.

Stat. Auth.: ORS 184.340, 292.045 & 184.305

Stats. Implemented: ORS 292.043, 292.045

Hist.: ASD 1-1993, f. 12-29-93, cert. ef. 1-1-94; BAD 1-2008, f. 9-16-08, cert. ef. 9-19-08

121-030-0040

Participation Requirements for Charitable Organizations

(1) To participate in the Annual Charitable Fund Drive, each organization claiming to be a charitable organization must participate as a member of an eligible fund or federation and must satisfy each of the following requirements:

(a) The organization must meet the definition of "charitable organization" in OAR 121-030-0010;

(b) The organization must have a "local presence" as defined in OAR 121-030-0010;

(c) The organization must have an Internal Revenue Service determination letter or advance ruling indicating that it is an exempt organization under Internal Revenue Code Section 501(c)(3), if applicable; and;

(d) The organization must comply with the relevant provisions of ORS 128.610 to 128.995 concerning registration with and reporting to the Attorney General, if required.

(2) Any organization claiming to be a charitable organization must provide the following information to the fund(s) or federation(s) for submission to the Committee upon request:

(a) Evidence that the organization meets the definition of "charitable organization" in OAR 121-030-0010, including a copy of the Internal Revenue Service determination letter indicating that the charitable organization is an exempt organization under Internal Revenue Code Section 501(c)(3), if applicable;

(b) Evidence of the organization's local presence as defined in OAR 121-0030-0010;

(c) Evidence that the organization has complied with the relevant provisions of ORS 128.610 to 128.995, concerning registration with and reporting to the attorney general, if required, or an explanation of why the organization has not registered and reported; and

(d) A copy of the charitable organization's written policy on nondiscrimination regarding race, color, religion, national origin, disability, age, sex, sexual orientation, or association with any of these protected classes, and applicable to persons served by it.

(3) Public Accountability Standards: Each charitable organization shall annually prepare and make a report available to the fund(s) and federation(s) that represent it. The report shall include a full description of the organization's activities, including types of solicitation for contributions, the names of its chief administrative personnel, and full disclosure of the source of and use of all contributions. The report shall also disclose the charitable organization's fund-raising costs and the estimated percentage of money collected that will be applied to administrative costs and to charitable activities. The funds and federations shall make this information available to state employees upon request during the annual solicitation.

(4) A charitable organization shall be denied participation in the current year's Annual Charitable Fund Drive for failure to meet the eligibility requirements set forth in OAR 121-030-0040(1) through (3). The Committee will notify the fund or federation representing the charitable organization in writing of the denial of participation.

(5) A charitable organization shall be removed from participation in the current year's Annual Charitable Fund Drive and denied participation in the Annual Charitable Fund Drive for the following two years, if the charitable organization fails to properly account for, allocate, or represent financial transactions. The Committee will notify the fund or federation representing the charitable organization in writing of the charitable organization's removal from participation from the current year's Annual Charitable Fund Drive and denial of participation in the Annual Charitable Fund Drive for the following two years within 45 days after the date a quorum of Committee members determines that a disqualifying event has occurred.

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

Stat. Auth.: ORS 184.340, 292.045 & 184.305

Stats. Implemented: ORS 184.340, 292.045 & 184.305

Hist.: ASD 1-1993, f. 12-29-93, cert. ef. 1-1-94; BAD 2-1998, f. 12-17-98, cert. ef. 12-24-98; BAD 2-2002, f. & cert. ef. 7-30-02; BAD 1-2003(Temp), f. & cert. ef. 6-11-03 thru 12-8-03; BAD 3-2003, f. & cert. ef. 11-10-03; BAD 1-2008, f. 9-16-08, cert. ef. 9-19-08

121-030-0050

Participation Requirements for Funds and Federations

(1) To participate in the Annual Charitable Fund Drive, each fund or federation must satisfy each of the following requirements:

(a) The organization must meet the definition of "charitable organization" in OAR 121-030-0010;

(b) The organization must meet the definition of a "fund" or "federation" in OAR 121-030-0010;

(c) The organization must have a "local presence" as defined in OAR 121-030-0010;

(d) The organization must have an Internal Revenue Service determination letter or advance ruling indicating that it is an exempt organization under Internal Revenue Code Section 501(c)(3), if applicable;

(e) The organization must comply with the relevant provisions of ORS 128.610 to 128.995 concerning registration with and reporting to the Attorney General, if required;

(2) Any organization claiming to be a fund or federation must submit the following information to the Committee upon request:

(a) Evidence that the fund or federation meets the definition of "charitable organization" in OAR 121-030-0010, including a copy of the Internal Revenue Service determination letter indicating that the fund or federation is an exempt organization under Internal Revenue Code Section 501(c)(3), if applicable;

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(b) Evidence that the fund or federation meets the definition of a "fund" or "federation" in OAR 121-030-0010;

(c) Evidence of the fund's or federation's local presence as defined in OAR 121-030-0010;

(d) Evidence that the fund or federation has complied with the relevant provisions of ORS 128.610 to 128.995, concerning registration with and reporting to the Attorney General, if required, or an explanation of why the organization has not registered and reported; and

(e) A copy of the organization's written policy on nondiscrimination regarding race, color, religion, national origin, disability, age, sex, sexual orientation, or association with any of these protected classes, and applicable to persons served by it.

(3) Public Accountability Standards: Each fund or federation shall annually prepare and submit to the Committee, as part of the application, a report that includes a full description of its activities, including types of solicitation for contributions, the names of its chief administrative personnel, and full disclosure of the source of and use of all contributions. The report shall also disclose the fund-raising costs and the estimated percentage of money collected that will be applied to administrative costs and to charitable activities. The funds and federations shall make this information available to state employees upon request during the annual solicitation.

(4) Each fund or federation that participates in the Annual Charitable Fund Drive, shall support and participate in the events and activities associated with the fund drive.

(5) Each fund or federation must submit an application to the Charitable Fund Drive Committee in the form prescribed by the Committee and by the date established by the Committee. At a minimum, the funds and federations shall be asked to provide the information required by OAR 121-030-0050(1) through (3) and to affirm their intention to participate as required by OAR 121-030-0050(4). The Committee may request additional information or clarification of the information submitted with an application.

(6) Once a fund or federation has been accepted for participation in the Annual Charitable Fund Drive, the Committee may exercise discretion and accept previous application information in determining eligibility for participation in subsequent Annual Charitable Fund Drives. The Committee will notify the fund or federation in writing if it elects to exercise such discretion.

(7) A fund or federation shall be denied participation in the current year's Annual Charitable Fund Drive for:

(a) Failure to meet the eligibility requirements set forth in OAR 121-030-0050(1) through (4); or

(b) Failure to apply or renew the application to participate in the Annual Charitable Fund Drive by the deadline set by the Committee.

(8) A fund or federation shall be notified in writing of acceptance for or denial of participation in the current year's Annual Charitable Fund Drive within 45 days after the application deadline.

(9) A fund or federation shall be removed from participation in the current year's Annual Charitable Fund Drive and denied participation in the Annual Charitable Fund Drive for the following two years if the fund or federation fails:

(a) To properly account for, allocate, or represent financial transactions; or

(b) To pay the fund's or federation's allocated share of the costs of the fund drive.

(10) A fund or federation shall be notified in writing of its removal from participation from the current year's Annual Charitable Fund Drive and denial of participation in the Annual Charitable Fund Drive for the following two years within 45 days after the date a quorum of Committee members determines that a disqualifying event has occurred.

Stat. Auth.: ORS 184.340, 292.045 & 184.305

Stats. Implemented: ORS 292.043, 292.045

Hist.: ASD 1-1993, f. 12-29-93, cert. ef. 1-1-94; BAD 2-1998, f. 12-17-98, cert. ef. 12-24-98; BAD 1-2008, f. 9-16-08, cert. ef. 9-19-08

121-030-0060

Charitable Fund Drive Management Organization

(1) The Charitable Fund Drive Committee will select a person or organization as the Charitable Fund Drive Management Organization through an open competitive process.

(2) The selection process will consider cost, experience, and ability to conduct a statewide fund drive.

Stat. Auth.: ORS 184.340, 292.045 & 184.305

Stats. Implemented: ORS 292.043, 292.045

Hist.: ASD 1-1993, f. 12-29-93, cert. ef. 1-1-94; ASD 1-1994(Temp), f. & cert. ef. 4-14-94; DAS 2-1995(Temp), f. & cert. ef. 5-19-95; BAD 1-2002(Temp), f. 1-31-02, cert. ef. 2-1-02 thru 7-30-02; BAD 2-2002, f. & cert. ef. 7-30-02; BAD 1-2008, f. 9-16-08, cert. ef. 9-19-08

121-030-0070

Charitable Fund Drive Costs

(1) It is the responsibility of the Charitable Fund Drive Committee to allocate the costs of the fund drive to each participating fund and federation. The Charitable Fund Drive Committee will consider such factors as the contributions received by each fund and federation, the exposure of each fund and federation to the employee base, and fixed costs.

(2) Participating funds and federations shall sign a memorandum of agreement with the Charitable Fund Drive Committee and the Charitable Fund Drive Management Organization to develop a cooperative fund drive and pay all costs of the fund drive. Such costs include, but are not limited to, costs incurred for the overall management and coordination of the Annual Charitable Fund Drive; design and printing of brochures and payroll deduction forms; training provided to employee volunteers; promotional events; and any other expenditure deemed necessary and approved by the Charitable Fund Drive Committee.

(3) Interest accrued on employee and retiree donations may be used by the Charitable Fund Drive Committee to offset fund drive costs, including bank transaction fees.

Stat. Auth.: ORS 184.340, 292.045 & 184.305

Stats. Implemented: ORS 292.043, 292.045

Hist.: ASD 1-1993, f. 12-29-93, cert. ef. 1-1-94; BAD 1-2008, f. 9-16-08, cert. ef. 9-19-08

121-030-0080

Appeals

(1) Funds and federations may appeal:

(a) Denial of participation;

(b) Removal from participation; and

(c) Actions of the Charitable Fund Drive Committee with respect to the Committee's policies and procedures.

(2) Any appeal by a fund or federation must be in writing and received by the Charitable Fund Drive Committee within ten business days of the mailing of the written notice of denial, removal, or Committee action. The appeal must specify the particular action that is being appealed and why.

(3) The Charitable Fund Drive Committee has 45 days from the date of the appeal letter to respond.

(4) A fund or federation that is not satisfied with the response of the Committee may appeal in writing to the Director within ten business days of the date on which the Committee mailed its response.

(5) The decision of the Director shall be final.

Stat. Auth.: ORS 184.340, 292.045 & 184.305

Stats. Implemented: ORS 292.043, 292.045

Hist.: ASD 1-1993, f. 12-29-93, cert. ef. 1-1-94; BAD 1-2008, f. 9-16-08, cert. ef. 9-19-08

121-030-0090

Designation of Direct Recipients

Funds and federations shall allow state employees and retirees to designate any affiliated charitable organization eligible to participate in the Annual Charitable Fund Drive as the direct recipient of an employee's or retiree's contribution.

Stat. Auth.: ORS 184.340, 292.045 & 184.305

Stats. Implemented: ORS 292.043, 292.045

Hist.: BAD 1-2008, f. 9-16-08, cert. ef. 9-19-08

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

Rule Caption: Establishes Oregon Educators Benefit Board's policies for use of members' Social Security numbers.

Adm. Order No.: OEBB 15-2008

Filed with Sec. of State: 9-25-2008

Certified to be Effective: 9-29-08

Notice Publication Date: 6-1-2008

Rules Adopted: 111-060-0001

Subject: Establishes Oregon Educators Benefit Board's policies for use of members' Social Security numbers.

Rules Coordinator: Rose Mann—(503) 378-4606

111-060-0001

Use of Social Security Numbers

(1) The Oregon Educators Benefit Board (OEBB) will comply with the requirements of Section 7 of the Privacy Act of 1974 and the Oregon Consumer Identity Theft Protection Act, ORS 646A.600 to 646A.628 when requesting or requiring complete or partial disclosure of an eligible employee's or family member's, as defined in ORS 243.860(4) and (5) respectively, social security number.

(2) OEBB may request voluntary disclosure and consent to use the social security number of an eligible employee or family member for

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OEBB's internal verification and identification of enrollments or elections for participation in benefits provided by OEBB.

(3) A request for disclosure of an employee's social security number will notify the eligible employee or family member:

- (a) Whether disclosure is mandatory or voluntary;
- (b) Under what statutory or other authority the social security number is requested;
- (c) What specific use or uses will be made of the number; and
- (d) What effect, if any, refusal to provide the number or to grant consent for a voluntary use as described above in (2) will have on an individual.

(4) An eligible employee's or family member's social security number may not be put to a voluntary use as described above in (2) unless the eligible employee or family member has granted consent for that use. If, after having provided notice and received consent to use an eligible employee's or family member's social security number for specified purposes, OEBB wishes to use the social security number for additional purposes not included in the original notice and consent, OEBB must provide the eligible employee or family member notice and receive the eligible employee's or family member's consent to use the number for those additional purposes.

(5) An eligible employee's or family member's refusal to permit voluntary use of his or her social security number will not be used as a basis to deny the eligible employee or family member a right, benefit, or privilege provided by law.

(6) OEBB will develop and provide a disclosure and consent form for requesting social security numbers.

Stat. Auth.: ORS 243.864
Stats. Implemented: ORS 646A.600 - 646A.628 & 243.860(4) & (5)
Hist.: OEBB 6-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; OEBB 15-2008, f. 9-25-08, cert. ef. 9-29-08

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**Department of Agriculture,
Oregon Fryer Commission
Chapter 620**

Rule Caption: Temporary Rule to suspend the assessment to growers for the Oregon Fryer Commission.

Adm. Order No.: OFC 2-2008(Temp)

Filed with Sec. of State: 10-6-2008

Certified to be Effective: 10-6-08 thru 2-28-09

Notice Publication Date:

Rules Amended: 620-010-0020

Subject: The Oregon Fryer Commission will temporarily suspend the assessment charged to Oregon growers due to a number of increases in costs to growers that have been made continued operation of their business difficult. The assessment will be suspended as of September 1, 2008 due to an emergency situation.

Rules Coordinator: Julie Schiele—(503) 537-6200

620-010-0020

Assessment

(1) Any person who is a first purchaser as defined in ORS 576, shall deduct and withhold an assessment at the rate of 0 cents per pound live-weight on all fryers grown in Oregon to become effective retroactive September 1, 2008 through February 28, 2009.

(2) Notwithstanding section (1) of this rule, no assessment is required to be deducted, withheld, or paid by a producer, or "first purchaser", if:

- (a) The first purchaser purchases the fryers for his own consumption; and
- (b) The fryers are purchased direct from the producer; and
- (c) The fryers are from the producer's own production; and
- (d) The total purchases by such "first purchaser", from all producers during any 90-day period, does not exceed 30 pounds.

Stat. Auth.: ORS 576
Stats. Implemented:
Hist.: 1FC 1, f. 2-10-58; 1FC 3, f. 6-15-60; 1FC 6(Temp), f. & ef. 4-17-75; 1FC 7, f. 7-31-75, ef. 8-25-75; 1FC 9, f. & ef. 6-7-76; 1FC 1-1982, f. 1-7-82, ef. 1-15-82; OFC 2-2008(Temp), f. & cert. ef. 10-6-08 thru 2-28-09

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**Department of Community Colleges
and Workforce Development
Chapter 589**

Rule Caption: Employer Workforce Training Fund.

Adm. Order No.: DCCWD 1-2008(Temp)

Filed with Sec. of State: 9-18-2008

Certified to be Effective: 9-18-08 thru 3-17-09

Notice Publication Date:

Rules Amended: 589-020-0225

Subject: Executive Order #03-16 established the Employer Workforce Training Account and directed the Department of Community Colleges and Workforce Development to develop and adopt rules to implement the administration of the Account. This rule establishes the role of the Oregon Workforce Investment Board in determining funding levels for Workforce Response Team Funds, Statewide Opportunity funds, and the Governor's Strategic Training Fund.

Rules Coordinator: Linda Hutchins—(503) 378-8648, ext. 474

589-020-0225

Employer Workforce Training Fund

(1) Purpose: The Employer Workforce Training Account (EWTA) was established by Executive Order # 03-16 to support the retention and growth of living wage jobs, a skilled workforce, and competitive businesses in Oregon. To administer the EWTA, the Department of Community Colleges and Workforce Development (CCWD) established the Employer Workforce Training Fund (EUTF). This workforce development strategy must ensure that public and private sector investments are leveraged for the greatest impact and that training programs are responsive to the needs of business, industry, and the workers.

(2) Definitions:

(a) Employer Workforce Training Account (EWTA): Established by Executive Order to support the Governor's economic recovery plan to ensure that a skilled workforce available to keep Oregon's industries productive and competitive.

(b) Employer Workforce Training Fund (EUTF): Includes Workforce Response Team (WRT) funds, EUTF Statewide Opportunity funds (SO) and the EUTF Governor's Strategic Training Fund (GSTF).

(3) General Provisions: Employer Workforce Training Fund (EUTF)

(a) The EUTF has three outcome goals:

(A) Create and retain living wage jobs in Oregon;

(B) Build a highly skilled workforce, especially in high-wage, high-demand industries;

(C) Enhance the global competitiveness of Oregon businesses based on the skill of their workforce.

(b) The EUTF includes Oregon's Workforce Investment Act (WIA) allocation, identified as reserve funds, under section 128(a) and 133(a) of the WIA.

(c) The OWIB Strategic Plan gives direction to the EUTF which is most advantageous economically to the state and workforce regions. The direction for EUTF funds may be updated at the direction of the OWIB and the Governor or his designee through the OWIB Strategic Plan.

(d) All employers and partner agencies participating in regional or statewide EUTF projects must meet the requirements of the CCWD Methods of Administration (MOA).

(e) OWIB must notify CCWD annually, prior to July 1, of the funding allocation for EUTF. A minimum of 65% of the funds shall be allocated regionally for WRT purposes. The remainder will be allocated at OWIB's discretion for SO and GSTF.

(f) CCWD shall allocate and distribute EUTF in accordance with the OWIB allocation. All funds must be expended on a cost reimbursement basis.

(g) EUTF projects must comply with all applicable federal, state and local laws, rules, regulations, executive orders, ordinances or orders applicable to this funding.

(h) All participants in any EUTF award decision must comply with conflict of interest requirements at 29 CFR 667.200(a)(4)(i) by neither casting a vote on, nor participating in any decision-making capacity.

(i) All EUTF projects are subject to CCWD Monitoring.

(4) EUTF Workforce Response Team (WRT) Funds

(a) The EUTF WRT funds shall be used to support the training of workers at outlined in CCWD policy 589-20.4.

(b) CCWD shall distribute the WRT funds to the Local Workforce Investments Boards for regional distribution through the local plan.

(5) EUTF Statewide Opportunity (SO) Funds

(a) The SO funds are awarded for the purpose of solving challenges or engaging in opportunities in Oregon with regard to its workforce development needs. SO funds will be focused in opportunity areas identified by the OWIB and the Governor or his designee.

(b) OWIB will:

(A) Seek, identify, and/or select proposals based on strategic plan priorities;

(B) Establish eligibility criteria and application process for SO grants;

(C) Set performance measures and reporting for SO projects;

(D) Approve SO projects;

(E) Adopt policies as needed for SO funds.

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- (c) CCWD will administer the EWTF SO funds.
- (6) EWTF Governor's Strategic Training Fund (GSTF)

(a) The GSTF supports the retention and growth of living wage jobs, a skilled workforce, and competitive businesses in Oregon. GSTF is a flexible, responsive, and time-sensitive resource for training Oregon's private sector workforce. The emphasis is to upgrade the skills of the workforce in order to increase productivity, keep Oregon businesses viable and competitive, and offer new skills and opportunities to Oregon's workers. The Governor or his designee, OECD, CCWD and OED will set the broad criteria for GSTF. Funding decisions shall be made by the Governor and/or his designee. Upon the Governor's approval, an approved application will be sent to CCWD to award funds.

- (b) OWIB will coordinate with the Governor and/or his designee to:

(A) Establish eligibility criteria and application process for GSTF projects;

- (B) Set performance measures and reporting for GSTF projects;

(C) Coordinate approval of GSTF projects decisions with the Governor and/or his designee;

- (D) Adopt policies as needed for GSTF.

- (c) CCWD will administer the EWTF GSTF.

Stat. Auth.: ORS 660.318

Stats. Implemented:

Hist.: DCCWD 2-2004, f. & cert. ef. 11-30-04; DCCWD 4-2006(Temp), f. & cert. ef. 6-15-06 thru 11-30-06; DCCWD 5-2006, f. & cert. ef. 9-15-06; DCCWD 1-2008(Temp), f. & cert. ef. 9-18-08 thru 3-17-09

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

Rule Caption: Amendment to Certification Rule.

Adm. Order No.: BCD 15-2008

Filed with Sec. of State: 9-26-2008

Certified to be Effective: 9-26-08

Notice Publication Date: 1-1-2006

Rules Amended: 918-281-0010

Subject: The rule clarifies and standardizes continuing education requirements for inspector certifications.

Rules Coordinator: Shauna Parker—(503) 373-7438

918-281-0010

Continuing Education

Electrical inspectors must obtain continuing education as outlined in OAR 918-098-1450.

Stat. Auth.: ORS 479.650

Stats. Implemented: ORS 455.720 & 479.680

Hist.: BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96; BCD 16-2005(Temp), f. & cert. ef. 7-7-05 thru 12-31-05; Administrative correction 1-20-06; BCD 4-2006, f. 3-31-06, cert. ef. 4-1-06; BCD 15-2008, f. & cert. ef. 9-26-08

Rule Caption: Establishes permitting and inspection procedures for electric vehicle charging stations.

Adm. Order No.: BCD 16-2008(Temp)

Filed with Sec. of State: 9-26-2008

Certified to be Effective: 9-26-08 thru 3-25-09

Notice Publication Date:

Rules Adopted: 918-311-0065

Subject: This temporary rule establishes a permitting and inspection protocol for electric vehicle charging stations. As part of the governor's sustainability agenda, the division is working to accommodate new sustainable technology advances. The proposed rule addresses emerging technology, defining permit and inspection requirements for the installation of charging stations for electric vehicles.

Rules Coordinator: Shauna Parker—(503) 373-7438

918-311-0065

Electric Vehicle Charging Station Statewide Permit and Inspection Protocol

(1) To ensure a path for the emerging technology and enable the installation of charging stations for electric vehicles, the following permit and inspection protocols will apply throughout the state, notwithstanding contrary provisions contained in the **Oregon Electrical Specialty Code**.

(2) Building officials and inspectors shall permit and allow installation of an electric vehicle charging station that has a Building Codes Division's special deputy certification label without further testing or certification.

(3) Persons installing an electric vehicle charging station must obtain a permit for a feeder from the inspecting jurisdiction. No other state building code permit is required.

(4) The jurisdiction may perform up to two (2) inspections under the permit issued in subsection (3) above.

(5) Inspection of the installation is limited to examining the feeder for compliance with the following **Oregon Electrical Specialty Code** provisions:

- (a) Overcurrent protection, per articles 225 and 240;

- (b) Physical protection of conductors, per article 300;

(c) Separation and sizing of the grounding and neutral conductors, per article 250.20; and

(d) Provisions for locking out the breaker for maintenance, per chapter 4.

(6) For the purpose of this rule, the service, feeder, and charging station pedestal will be considered a single structure as defined by the **Oregon Electrical Specialty Code**. The structure's owner may opt to install a grounding electrode system to supplement lightning protection, but cannot be required to do so.

Stat. Auth.: ORS 455.065

Stat. Implemented: ORS 455.065

Hist.: BCD 16-2008(Temp), f. & cert. ef. 9-26-08 thru 3-25-09

Rule Caption: Allows licensed elevator contractors to use minor label permits when performing minor repairs on elevators.

Adm. Order No.: BCD 17-2008

Filed with Sec. of State: 9-26-2008

Certified to be Effective: 10-1-08

Notice Publication Date: 7-1-2008

Rules Adopted: 918-400-0670, 918-400-0675, 918-400-0680, 918-400-0685

Rules Amended: 918-100-0010, 918-100-0020, 918-100-0030, 918-100-0040, 918-100-0050, 918-100-0060, 918-400-0280

Subject: The rules expand the division's statewide minor label program to include minor repairs to elevators. The work must be performed by licensed elevator contractors and is limited to specific repairs deemed to be "minor." The minor labels permits are issued in lots of ten and one out of the ten issued are inspected. These rules do not add permit or code requirements to performing minor repairs and all minor repair work performed must be in compliance with the Oregon Elevator Specialty Code.

Rules Coordinator: Shauna Parker—(503) 373-7438

918-100-0010

Definitions

The following definitions are adopted:

(1) "Accessible" means the structural, mechanical, and plumbing installations can be easily inspected because the work is in the open or because there is a designed permanent physical access such as an access panel, door, or similar entry.

(2) "Applicant" is a person authorized to take out a master inspection permit or minor label.

(3) "Closest Office" means:

(a) In the case of the division, the closest office within the state from which appropriate inspectors are dispatched; or

(b) In the case of a municipality, the closest office from which appropriate inspectors serving the facility are dispatched within the municipal boundaries. If a municipality does not have an office from which inspectors are dispatched, the "closest office" is the municipality's executive office or the point of actual dispatch, whichever is closest.

(4)(a) A "Covered Facility" under the master permit program is one or more commercial or industrial buildings or structures under common ownership or management located within the boundaries of the same inspection jurisdiction:

(A) Within the same complex on contiguous lots; or

(B) Situated at different locations within the municipality and both the inspecting jurisdiction and the permittee agree to treat the buildings or structures as a "covered facility."

(b) A "covered facility" under the master permit program, does not include an apartment or combination of apartments having less than a total of six living units.

(5) "Inspecting Jurisdiction" is the municipality or state serving the area with inspection services.

(6) "Inspection Hours" means the time necessary to do the inspections under the special alternative master permit inspection program. This includes travel to and from the closest office of the inspecting jurisdiction as well as inspector documentation.

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(7) "Jurisdictional Inspector" is the inspector for an inspecting jurisdiction.

(8) "Minor Label" is an adhesive sticker with a corresponding log sheet or corresponding online account sold by a jurisdiction or the division for use with minor installation inspection programs.

(9) "New Construction" means:

(a) Creation of a new building shell;

(b) Installation of mechanical and plumbing products as part of the work described in subsection (a) of this section;

(c) Any structural, mechanical, or plumbing work performed in connection with changing the use or occupancy classification of the building, except as permitted by OAR 918-100-0080; or

(d) Any addition which increases the square footage of the building or structure.

(10) "Occupancy Classification" means the designation of a building according to its use or the character of its occupancy into one or more of the occupancy groups as provided in the **Oregon Structural Specialty Code**.

(11) "Repair and Maintenance" means restoring accessible or existing plumbing appliances, appurtenances, fixtures, wastes, vents, or distribution pipes in buildings or structures to a safe and sanitary condition.

(12) "Replacement" means exchanging an existing structural component or mechanical or plumbing product for a similar item which:

(a) Does not change the source or location of power;

(b) Does not exceed the design capacity of the existing system or structure; and

(c) Meets current accessibility and earthquake requirements.

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

Stat. Auth.: ORS 447.072, 447.076, 455.144(7), 455.627, 460.085(1), 479.540(15) & 479.570(2)

Stats. Implemented: ORS 447.072, 447.076, 455.627, 460.085(1), 479.540(15) & 479.570(2)
Hist.: BCD 27-1994, f. & cert. ef. 11-15-94; BCD 30-2000, f. 12-27-00, cert. ef. 1-1-01; BCD 4-2002, f. 3-8-02, cert. ef. 4-1-02; BCD 22-2004, f. & cert. ef. 10-1-04; BCD 17-2008, f. 9-26-08, cert. ef. 10-1-08

918-100-0020

Scope of Minor Installation Label Programs

(1) The statewide minor installation label program is a mandatory statewide program for which labels are sold by the division and used within any jurisdiction.

(a) The division administers the residential, commercial, and industrial plumbing and electrical minor installation label program. Local jurisdictions are required to participate in the program by performing inspections on behalf of the division on a percentage of minor installation labels used by contractors.

(b) Work performed under this program shall conform to the **Oregon Electrical Specialty Code**, the **Oregon Plumbing Specialty Code** and the **Oregon Residential Specialty Code**. The scope of work allowed under this program is defined in OAR 918-309-0220 for electrical installations and OAR 918-780-0140 for plumbing installations.

(2) Jurisdictions may file a request for delegation of optional minor installation programs. Use of a minor installation label by an appropriate person include:

(a) Work performed under the structural commercial and industrial minor label program shall be to the **Oregon Structural Specialty Code**. The scope of work allowed under this program includes:

(A) Alteration, replacement, or repair of up to 100 linear feet of non-bearing, walls and partitions that are not fire resistive and that are not part of the building shell, an exit, or an exit passageway;

(B) Window and door replacements or relocations not part of an exit or exit passageway and fit within existing openings. Replacement windows and doors shall comply with the requirements of current state codes, including but not limited to safety glazing requirements;

(C) Light weight interior awnings under 100 pounds total weight;

(D) Removal and replacement of acoustical ceiling tiles in ceilings not fire-rated of less than 1,000 square feet. Replacement of supporting grid is not included; and,

(E) Minor roofing repairs not exceeding ten percent of the roofing area.

(b) Work performed under the mechanical commercial and industrial minor label program shall be to the **Oregon Mechanical Specialty Code**. The scope of work allowed under this program includes:

(A) Moving or replacing duct work not involving fire dampers or penetrations of fire walls, fire assemblies or floors;

(B) Moving grills in duct work; or,

(C) Replacing existing heating, cooling and ventilation equipment.

(3) The minor label program does not include:

(a) New construction, except as allowed under OAR 918-309-0220(3)(a) and (b);

(b) Accessibility retrofit;

(c) Major roof repairs, constituting more than ten percent of roofing area, and reroofing;

(d) Work on fire extinguishing or smoke evacuation systems;

(e) Chemical or industrial liquid waste and vent piping; or

(f) Combination waste and vent systems.

(4) The elevator minor label program is a statewide program for which labels are sold by the division and used within any jurisdiction.

(a) The division administers the elevator minor installation label program. The division shall perform inspections on a percentage of minor installation labels used by contractors.

(b) Work performed under this program shall conform to the **Oregon Elevator Specialty Code**. The scope of work allowed under this program is defined in 918-400-0675.

(5) No more than one minor label for each specialty area or one elevator minor label shall be used on any single project per job site. For the purpose of this rule, a job site means work at the same address.

(6) A minor label is only required when the work otherwise requires a permit. No new permit requirements are created.

(7) If a jurisdiction chooses not to offer the optional minor label program, permits and individual inspections shall continue to be required in each program.

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

Stat. Auth.: ORS 447.072, 447.076, 455.144(7), 455.627, 460.085(1), 479.540(15) & 479.570(2)

Stats. Implemented: ORS 447.072, 447.076, 455.627, 460.085(1), 479.540(15) & 479.570(2)
Hist.: BCD 27-1994, f. & cert. ef. 11-15-94; BCD 4-2002, f. 3-8-02, cert. ef. 4-1-02; BCD 22-2004, f. & cert. ef. 10-1-04; BCD 17-2008, f. 9-26-08, cert. ef. 10-1-08

918-100-0030

Minor Label Fees

Minor labels sold by the division for installations governed by these rules shall be sold in lots of ten at a cost of \$125.

Stat. Auth.: ORS 447.072, 447.076, 447.095, 455.020, 455.144(7), 455.154, 455.155, 455.627, 455.844, 455.846, 460.085(1), 479.540(15), 479.570(2) & 479.840

Stats. Implemented: ORS 447.072, 447.076, 455.154, 455.155, 455.627, 455.844, 455.846, 479.540(15) & 479.570(2)

Hist.: BCD 27-1994, f. & cert. ef. 11-15-94; BCD 4-2002, f. 3-8-02, cert. ef. 4-1-02; BCD 31-2005, f. 12-30-05, cert. ef. 1-1-06; BCD 17-2008, f. 9-26-08, cert. ef. 10-1-08

918-100-0040

Issuance of Minor Labels

The following persons are eligible to purchase minor labels:

(1) Structural and mechanical minor labels. Building owners, the owner's agent or the contractor doing the work, who holds a Construction Contractors Board license.

(2) Plumbing minor labels. Plumbing contractors authorized by OAR 918-780-0130.

(3) Electrical minor labels. Electrical contractors authorized by OAR 918-309-0210.

(4) Elevator minor labels. Elevator contractors authorized by OAR 918-400-0333.

Stat. Auth.: ORS 447.072, 447.076, 455.154, 455.627, 460.085(1), 479.540(15) & 479.570(2)

Stats. Implemented: ORS 447.072, 447.076, 455.627, 460.085(1), 479.540(15) & 479.570(2)
Hist.: BCD 27-1994, f. & cert. ef. 11-15-94; BCD 4-2002, f. 3-8-02, cert. ef. 4-1-02; BCD 22-2004, f. & cert. ef. 10-1-04; BCD 17-2008, f. 9-26-08, cert. ef. 10-1-08

918-100-0050

Requirements for Persons Using Minor Labels

(1) A person making a minor installation under either a statewide or optional minor label program shall:

(a) Fill in the information required on a minor label and attach it to the electrical panel, or near the installation if no panel is present before work is started; or, for elevators, on or near the controller in the machine space in plain view;

(b) Record the installation in the minor label log sheet or in a minor label online account; and

(c) Return the minor label log sheet to the selling jurisdiction or division office after the ten minor labels are used, or every 12 months from date of sale, whichever occurs first; online account users do not need to return a minor label log sheet.

(2) A plumbing contractor making a minor concealed installation shall notify the division that the work is ready for inspection within 48 hours of completion. Work may not be covered or concealed until an inspection is made or approval to cover is given by the jurisdiction or the division.

(3) A minor label may be used on a job site with existing structural, mechanical, plumbing, electrical, or elevator permits provided the work is of the type covered by the minor label rules, and the contractor does not have an existing permit for that job site.

(4) Minor installation labels may not be exchanged or transferred.

Stat. Auth.: ORS 447.072, 447.076, 455.154, 455.627, 460.085(1), 479.540(15) & 479.570(2)

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Stats. Implemented: ORS 447.072, 447.076, 455.627, 460.085(1), 479.540(15) 479.570(2)
Hist.: BCD 27-1994, f. & cert. ef. 11-15-94; BCD 4-2002, f. 3-8-02, cert. ef. 4-1-02; BCD
22-2004, f. & cert. ef. 10-1-04; BCD 17-2008, f. 9-26-08, cert. ef. 10-1-08

918-100-0060

Requirements for Municipalities

At least ten percent of each minor label lot shall be inspected.

(1) For optional programs, the authority having jurisdiction shall inspect within 30 days of return of a minor label log sheet, or of lot completion in an online account. If the work inspected violates the code under which the installation is made, the inspecting jurisdiction may:

(a) Inspect additional installations listed in the log sheet or the online account; and

(b) Charge the person purchasing the minor labels for all new inspections and for all reinspections required at the jurisdiction's hourly inspection rate.

(2) Under the statewide program, the authority having jurisdiction shall inspect the minor installation within 30 days of contacting the homeowner, but no more than 35 days from the date of receipt of the division's request to inspect.

(a) The division shall compensate each inspecting jurisdiction \$75 per inspection for the first minor label installation inspected in a lot. In the event that a jurisdiction is required to perform an inspection on a second or third label, the contractor shall compensate the jurisdiction directly at a uniform flat fee of \$75. If the jurisdiction finds a code violation that requires a second inspection of minor label, the contractor shall compensate the jurisdiction directly at the jurisdiction's hourly rate.

(b) The division shall, upon notice of three failed inspections in the same lot of labels, notify the contractor and the jurisdictions affected by the remaining labels in the same lot. Each jurisdiction shall then notify the contractor that a permit is necessary for each of the remaining installations within the jurisdiction in the same lot of labels, and work shall follow the normal permit and inspection procedures for that jurisdiction.

(c) If, at any time during a three-year period, the division notifies jurisdictions of two or more lots of minor labels under subsection (b) of this section, the division shall no longer issue minor label sheets to the contractor for a period of one year, upon final determination. Normal permit and inspection procedures for the applicable jurisdiction shall be followed. The contractor shall return any unused minor labels to the division.

(d) Any contractor wishing to appeal a denial of the use of minor labels is entitled to a contested case hearing under the Administrative Procedures Act, ORS Chapter 183.

Stat. Auth.: ORS 447.072, 447.076, 455.144(7), 455.627, 479.540(15) & 479.570(2)
Stats. Implemented: ORS 447.072, 447.076, 455.627, 479.540(15) & 479.570(2)
Hist.: BCD 27-1994, f. & cert. ef. 11-15-94; BCD 4-2002, f. 3-8-02, cert. ef. 4-1-02; BCD
22-2004, f. & cert. ef. 10-1-04; BCD 17-2008, f. 9-26-08, cert. ef. 10-1-08

918-400-0280

Board-Created Definitions

For the purposes of OAR 918, division 400, unless the context requires otherwise, the following definitions are adopted:

(1) "Alteration" is a change of original design or operation through modernization, replacement of components or assemblies, or upgrade to existing equipment.

(2) "ANSI" means the American National Standards Institute.

(3) "Apprentice" means any person who is enrolled in an approved elevator apprenticeship program.

(4) "ASME" means the American Society of Mechanical Engineers.

(5) "Board" means the Electrical and Elevator Board.

(6) "BOLI" means the Bureau of Labor and Industries Apprenticeship Division.

(7) "Conveyance" is the industry term for elevator and includes, but is not limited to, escalator, man lift, inclined elevator, dumbwaiter, lowerator, platform hoist, material lift, moving walk, platform or wheelchair lift, and chair lift.

(8) "Electrical equipment" means any device or group of components that is connected to a source of electrical power. Such devices include, but are not limited to, electro-mechanical switches, controllers, motors, car and hall fixtures, lighting fixtures, or any other component that has exposed electrical parts or connections either by design or when protective covers are removed.

(9) "Elevator Lobby" is the area in front of an elevator for waiting, boarding, disembarking, loading, and unloading.

(10) "Equipment testing" means safety tests required by the adopted safety standard and required to be performed by properly licensed elevator technicians.

(11) "Industrial plant" means a facility engaged in a manufacturing endeavor to make a finished product using raw materials, especially on a large industrial scale wherein elevators are located and maintained by authorized plant personnel.

(12) "Interactive testing and maintenance" means that which requires interaction with the technical components of controllers and machinery and except where allowed by law, interactive testing and maintenance checks shall be performed only by licensed elevator personnel. This includes, but is not limited to, car and counterweight safety tests, pressure relief tests, buffer tests, brake tests, unintended car movement, and ascending car over speed tests.

(13) "License" means a document that signifies competency to install, repair, alter, or maintain elevator mechanical equipment within a particular field in the elevator industry.

(14) "Maintenance" is the renewal of operating parts, cleaning, lubricating, and adjusting existing elevator equipment to ensure proper and safe operation as required by code.

(15) "Mitigating Circumstances" are caused by a lack of materials or labor and are beyond the reasonable control of a building owner or contractor.

(16) "Modernization" means replacing elevator equipment with equipment that is not of the same design.

(17) "Operational testing and maintenance" means that which requires measurement, observation, cleaning and lubricating equipment that does not require disassembly or opening the equipment and shall be permitted to be performed by authorized or licensed elevator personnel. This includes, but is not limited to, fire service tests, step/skirt index tests, cleaning and lubricating exposed surfaces, starting and stopping of equipment through normal means, smoke and heat detector tests, relamping and repairing car lighting fixtures, and monthly monitoring of hydraulic oil levels.

(18) "Operator" is an individual employed by a general contractor, elevator contractor, or owner to operate an elevator under a construction use permit.

(19) "Reciprocating conveyor" means:

(a) A self contained, power driven stationary device that moves objects on a platform equipped with safety guards; or

(b) A prepackaged, self contained unit, that moves individuals in a residence on a motorized chair, along a predetermined horizontal, inclined, or vertical path between loading and discharge points.

(A) "Prepackaged" means a reciprocating conveyor sold as a unit that:

(i) Requires no electrical installations as defined by ORS 479.530;

(ii) Requires minimal assembly; and

(iii) Is installed on a straight run stairway.

(B) For the purposes of this section, the definition does not include vertical wheelchair lifts.

(20) "Repair" is the restoration of an elevator to its original intended design, but not changing its operation or intended use.

(21) "Term" means a set period for each phase of training within an approved apprenticeship program.

(22) "Transferable experience" means experience, knowledge, and aptitude gained on equipment not governed by the Elevator Safety Law but is similar in construct and application to the types of equipment associated with the licensing requirements herein.

(23) "Vertical Reciprocating Lift" is a power driven, isolated, self contained stationary lift that meets the requirements of the **Oregon Elevator Specialty Code**, Vertical Reciprocating Lift Code.

(24) "Waiver" or "Variance" is a trade term referring to a site-specific exception from code requirement granted under ORS 460.085.

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

Stat. Auth.: ORS 460.085

Stats. Implemented: ORS 460.085

Hist.: DC 25-1982, f. & ef. 12-16-82; Renumbered from 814-030-0003; BCD 18-1995, f. & cert. ef. 12-15-95; Renumbered from 918-400-005; BCD 13-1999, f. & cert. ef. 10-1-99; BCD 25-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 21-2002(Temp), f. 8-30-02, cert. ef. 9-1-02 thru 2-27-03; BCD 34-2002, f. 12-20-02, cert. ef. 1-1-03; BCD 3-2003, f. 2-28-03, cert. ef. 3-1-03; BCD 17-2007, f. 12-28-07, cert. ef. 1-1-08; BCD 17-2008, f. 9-26-08, cert. ef. 10-1-08

918-400-0670

Use of Minor Installation Labels

(1) Elevator contractors having a valid license under ORS 460.045(1) or 479.630(1) and a verified Construction Contractors Board license, when using elevator mechanics licensed under 460.005 to 460.175 or 479.630(6), may purchase and use minor labels as described by OAR 918-100-0000 through 918-100-0060; and,

(2) Only permit requirements are deleted. The Oregon Elevator Specialty Code elevator installation, alteration, and repair provisions and all licensing provisions of ORS 460.005 to 460.175, 479.630(1), or 479.630(6) shall be followed.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 460.085

Stats. Implemented: ORS 460.085

Hist.: BCD 17-2008, f. 9-26-08, cert. ef. 10-1-08

ADMINISTRATIVE RULES

918-400-0675

Scope of Elevator Work Allowed with Minor Installation Label

(1) Except as expressly provided in this rule, "minor elevator work" does not include modernization work; minor elevator work allowed under the minor label program provided by OAR 918-100-0000 through 918-100-0060 shall be as follows:

- (a) Replacement or repair of elevator signal equipment, including emergency signaling and communications equipment;
- (b) Replacement or repair of elevator car lighting or fans;
- (c) Replacement, repair, or modernization of elevator car enclosure linings and floor coverings;
- (d) Replacement or repair of a reopening device for power-operated car doors or gates;
- (e) Replacement or repair of pressure piping, piping connections, valves, or fittings;
- (f) Replacement or repair of speed governors;
- (g) Replacement or repair of hydraulic control valves;
- (h) Replacement or repair of elevator entrance assembly; and,
- (i) Installation, replacement, repair, or modernization of cartop controls, door operators, or security card readers.

(2) Only one type of minor label work listed in section (1) of this rule may be performed on one minor label; for any 30 day period, only one minor label may be used for each elevator at a job site.

Stat. Auth.: ORS 460.085
Stats. Implemented: ORS 460.085
Hist.: BCD 17-2008, f. 9-26-08, cert. ef. 10-1-08

918-400-0680

Minor Label Inspection Fees

(1) The first minor label installation inspection is included in the minor label purchase fee.

(2) In the event that a second inspection is required on an installation, or on a second or third label, the contractor shall pay for the inspection at the callback or reinspection fee rate provided in ORS 460.165(1)(d).

(3) When a contractor has three failed inspections in the same lot of labels, the contractor shall return any unused minor labels to the division; upon final determination, the division shall not issue minor labels to the contractor for a period of one year.

Stat. Auth.: ORS 460.085
Stats. Implemented: ORS 460.085
Hist.: BCD 17-2008, f. 9-26-08, cert. ef. 10-1-08

918-400-0685

Misuse of Minor Installation Labels

Violations of the minor label rules are subject to civil penalties or license revocations or both.

Stat. Auth.: ORS 460.085
Stats. Implemented: ORS 460.085
Hist.: BCD 17-2008, f. 9-26-08, cert. ef. 10-1-08

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Rule Caption: Regulates use and content of a written request to energize electrical installations prior to inspection.

Adm. Order No.: BCD 18-2008

Filed with Sec. of State: 9-26-2008

Certified to be Effective: 10-1-08

Notice Publication Date: 9-1-2008

Rules Adopted: 918-311-0070

Subject: The rule implements House Bill 2475 (2007) regulating the use and content of energizing letters. General supervising electricians may request to energize an electrical installation before an authority having jurisdiction has inspected the completed installation in certain circumstances. Electric utilities may not energize an installation as requested unless the request complies with this proposed rule. Electrical contractors must notify the inspecting authority that a request to energize was made and when the installation was energized.

Rules Coordinator: Shauna Parker—(503) 373-7438

918-311-0070

Use and Content of a Written Request to Reconnect an Electrical Installation

(1) As used in this rule:

(a) "Authority having jurisdiction" means the state or local government agency with authority under ORS Chapter 455 to inspect an electrical installation.

(b) "Electric utility" has the meaning given that term in ORS 469.300(10).

(c) "Uncontrollable event" means an event beyond the reasonable control of any person, including but not limited to, fire, floods, and severe weather.

(d) "Remote location" has the meaning given that term in OAR 918-271-0020.

(2) A licensed general supervising electrician may request that an electric utility energize a completed electrical installation before an authority having jurisdiction has inspected the completed electrical installation. Upon receipt of a request from a licensed general supervising electrician, an electric utility may energize an electrical installation to:

(a) Restore electrical service that was interrupted or disconnected because of a service change or uncontrollable event; or

(b) Initiate or restore electrical service to a remote location.

(3) A request made by a licensed general supervising electrician under subsection (2) of this rule shall be made in writing, using a form prescribed by the Building Codes Division, and must include the following information:

(a) The name, license number, and signature of the general supervising electrician who directed, supervised, made, or controlled the making of the electrical installation described in subsection (2) of this rule;

(b) The name and license number of the electrical contractor employing the general supervising electrician described in paragraph (a) of this subsection;

(c) The name and address of the electrical contractor's customer who contracted for the electrical installation;

(d) The address or location of the electrical installation if different than the customer's address;

(e) The date on which the electrical installation was completed by the general supervising electrician described in paragraph (a) of this subsection;

(f) The name, mailing address, and telephone number of the authority having jurisdiction to inspect the completed electrical installation;

(g) The name, mailing address, and telephone number of the electric utility receiving the request;

(h) Either the number of an electrical permit, if a permit is attached to the electrical installation, or a copy of a temporary permit, if a copy of the permit is posted at the job site; and

(i) Whether the request is for the purpose of restoring electrical service that was interrupted or disconnected because of a service change or uncontrollable event, or initiating or restoring electrical service to a remote location.

(4) A licensed general supervising electrician who makes a request under subsection (2) of this rule shall provide a copy of that request to:

(a) The electrical contractor described in subsection 3(b) of this rule;

(b) The customer described in subsection 3(c) of this rule; and

(c) The authority having jurisdiction described in subsection 3(f) of this rule.

(5) By the close of business on the first business day following the energizing of an electrical installation by an electric utility in response to a request submitted under subsection (2) of this rule, the electrical contractor described in subsection (3)(b) of this rule shall:

(a) Notify the authority having jurisdiction described in subsection 3(f) of this rule that the electrical installation has been energized; and

(b) Request that the authority having jurisdiction described in subsection 3(f) of this rule inspect the completed electrical installation.

(6) Notwithstanding ORS 756.040, 756.060, 757.035, and any rules adopted under those statutes, an electric utility may not energize a completed electrical installation as requested by a licensed general supervising electrician before an authority having jurisdiction has inspected the completed installation, unless the submitted request complies with subsection (3) of this rule.

(7) A civil penalty may be assessed against a person for violating subsections (2) through (6) of this rule in a manner provided by OAR 918-001-0036. In assessing a penalty under this subsection, the director may consider any appropriate factors, including, but not limited to, any prior violations of:

(a) Subsections (2) through (6) of this rule; or

(b) The Electrical Safety Law, ORS 479.510 to 479.945 and 479.995, and any rules adopted under the Electrical Safety Law.

Stat. Auth.: ORS 479.570
Stats. Implemented: ORS 479.570
Hist.: BCD 18-2008, f. 9-26-08, cert. ef. 10-1-08

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Rule Caption: Outlines a narrow electrical licensing exemption for duly authorized agents performing certain minor field fabrication.

Adm. Order No.: BCD 19-2008(Temp)

Filed with Sec. of State: 9-30-2008

Certified to be Effective: 9-30-08 thru 3-29-09

ADMINISTRATIVE RULES

Notice Publication Date:

Rules Adopted: 918-261-0032

Subject: This temporary rule defines “minor field fabrication” and outlines a narrow electrical licensing exemption for duly authorized agents, as defined in ORS 479.540(8)(c)(A). The rule’s exemption specifically allows the agent to lay cables prior to cutting them to length and establishing a termination means on components used to manufacture solar panels.

Rules Coordinator: Shauna Parker—(503) 373-7438

918-261-0032

Exemption for Certain Field Fabricated Industrial Assemblies

(1) A license is not required for minor field fabrication of cables that connect components of industrial electrical equipment when:

- (a) The equipment is used in the manufacture of solar cells; and
- (b) The fabrication is performed by a vendor or factory employee trained by the vendor or factory in the specific operation, maintenance, repair and installation of the components.

(2) For the purpose of this rule “minor field fabrication” means cutting cables to length, installing cables between components, terminating the cable and making the final attachment of the cable on the industrial electrical equipment.

(3) This exemption is in addition to the exemption established in ORS 479.540(8).

NOTE: This rule is effective for 180 days from the date of filing.
Stat. Auth.: ORS 479.540(10)
Stat Imp.: ORS 479.540(8) and (10)
Hist.: BCD 19-2008(Temp), f. & cert. ef. 9-30-08 thru 3-29-09

Rule Caption: Adopts amendments to the 2007 Oregon Structural Specialty Code.

Adm. Order No.: BCD 20-2008

Filed with Sec. of State: 9-30-2008

Certified to be Effective: 10-1-08

Notice Publication Date: 9-1-2008

Rules Amended: 918-460-0015

Rules Repealed: 918-460-0015(T)

Subject: The rule adopts amendments to the 2007 Oregon Structural Specialty Code (OSSC).

Rules Coordinator: Shauna Parker—(503) 373-7438

918-460-0015

Amendments to the Oregon Structural Specialty Code

(1) The **Oregon Structural Specialty Code** is adopted and amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the **Oregon Structural Specialty Code** are placed in this rule, showing the section reference, a descriptive caption, and a short description of the amendment.

(2) Effective October 1, 2008, the 2007 **Oregon Structural Specialty Code** is amended as follows:

(a) Minimum base shear equation. The base shear equation 12.8-5 of ASCE 7-05 is deleted and replaced with the following base shear equation per ASCE 7-05, Supplement No. 2: $C_s = 0.044S_{DS}I \geq 0.01$.

(b)(A) Group child care home definition. The definition of group child care home is deleted from Section 202.

(B) The definition of group child care home in Section 310.2 is deleted and replaced with: Family child care home (Licensed by Oregon Child Care Division under ORS 657A); Includes certified family child care homes (located in homes licensed for 16 or fewer children) and registered family child care homes (located in homes licensed for 10 or fewer children).

(c) Group day care facilities. Section 308.5 is amended to read: Group I-4, day care facilities. This group shall include buildings and structures occupied by persons of any age who receive custodial care for less than 24 hours by individuals other than parents or guardians, relatives by blood, marriage, or adoption and in a place other than the home of the person cared for. A facility such as the above with six or fewer persons or family child care homes (located in a private residence) as defined in Section 310.2, shall be classified as a Group R-3 or shall comply with the *Residential Code* in accordance with Section 101.2. Places of worship during religious functions are not included.

(d) Adult foster homes. Section 310.1 is amended to read:

(A) Adult foster homes as defined in ORS Chapter 443, or family child care homes (located in a private residence) as defined in Section 310.2.

(B) Adult foster homes and family child care homes that are within a single-family dwelling are permitted to comply with the Oregon Residential Specialty Code in accordance with Section 101.2.

(e) Aircraft hangars. Section 412.2.3 relating to floor surface of aircraft hangars is deleted.

(f)(A) Fire sprinklers. Section 903.2.7.1 is deleted.

(B) Section 903.2.7.2 is renumbered to 903.2.7.1 and amended as follows:

(i) The first paragraph is amended to read: Requirements. Where substantial alterations are made or substantial damage occurs to an existing non-sprinklered Group R2 apartment house, designed and constructed under the provisions of this code, an approved automatic sprinkler system complying with NFPA 13R shall be installed only in the substantially altered or damaged dwelling units. When more than 50 percent of the dwelling units within a building are substantially altered or damaged, the entire apartment house occupancy shall be provided with an NFPA 13R sprinkler system or equivalent.

(ii) The following language is inserted after the first paragraph: For the purpose of this section, when an NFPA 13R sprinkler system is installed, a fire department connection shall not be required.

(iii) The definition of substantial alteration is changed from 40 percent to 25 percent of the assessed value of the structure before the alteration occurred.

(iv) The definition of substantial damage is changed from 40 percent to 25 percent of the assessed value of the structure before the damage occurred.

(g) Means of egress. Section 1019.2 is amended as follows:

(A) The title is amended to read: Stories with one exit.

(B) Subsection 1 is deleted and replaced with the following: Stories meeting the limitations of Table 1019.2.

(C) Subsection 3 is deleted.

(D) Table 1019.2 and its footnotes are replaced with a new table and footnotes.

(h) Accessible sliding doors. The following sentence is added to the end of Section 1109.9.8: When sliding doors are fully open, operating hardware shall be exposed and usable from both sides.

(i) Overflow drains and scuppers. The text of section 1504.3 relating to overflow drains and scuppers is deleted and replaced with the following: Where roof drains are required, overflow drains shall be installed per section 1101.11 of the Oregon Plumbing Specialty Code.

(j) NFPA 13-2007 Seismic provisions. Section 1613.6.3 is added and reads: Automatic fire sprinkler systems. Automatic fire sprinkler systems designed and installed in accordance with NFPA 13 shall be deemed to meet the requirements of Section 13.6.8 of ASCE 7.

(k) Earthquake recording instrumentation. Section 1613.8 is amended to require earthquake recording instrumentation in new buildings over six stories above grade in height.

(l) Referenced standards. The referenced standards have been updated to read as follows:

- (A) NFPA 11, 2005.
- (B) NFPA 13, 2007.
- (C) NFPA 13R, 2007.
- (D) NFPA 13D, 2007.
- (E) NFPA 14, 2007.
- (F) NFPA 40, 2007.
- (G) NFPA 72, 2007.
- (H) NFPA 101, 2006.
- (I) NFPA 409, 2004.

(m) Special Residence (SR) occupancy fire alarm systems. The SR Appendix is amended as follows:

(A) Section SR107.3 is amended to read: Fire alarm systems. An approved manual and automatic supervised fire alarm system shall be installed in all Group SR occupancies. Detection shall be required only in the areas specified in section SR107.3.1 when an automatic sprinkler system is installed throughout the building, in accordance with 903.3.1 and connected to the building fire alarm system.

(B) Section SR108.3.2 is amended to read: Controlled egress fire alarm requirements. An approved automatic fire alarm system shall be provided for partial coverage in accordance with NFPA 72 and this appendix.

(C) The third exception listed under section SR108.3.2 is amended to read: The registers of a forced air HVAC system.

[Publications: Publications referenced are available for review at the division. See division web site for information on where to purchase publications.]
Stat. Auth.: ORS 447.231, 447.247, 455.030, 455.110 & 455.112
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,

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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

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Rule Caption: Amends Oregon Residential Specialty Code sections relating to moisture content in construction materials.

Adm. Order No.: BCD 21-2008

Filed with Sec. of State: 9-30-2008

Certified to be Effective: 10-1-08

Notice Publication Date: 9-1-2008

Rules Amended: 918-480-0010

Rules Repealed: 918-480-0010(T)

Subject: This rule amends the Oregon Residential Specialty Code in order to clarify a section requiring contractors or owner-builders to provide written notification that the moisture content of wood framing members does not exceed 19%. The rule requires contractors or owner-builders to acknowledge on a Building Codes Division-approved form that they are aware of the code provision and have taken steps to ensure compliance with the code. The rule clarifies that the moisture content of wood framing members is not subject to inspection by the authority having jurisdiction.

Rules Coordinator: Shauna Parker—(503) 373-7438

918-480-0010

Amendments to the Oregon Residential Specialty Code

(1) The **Oregon Residential Specialty Code** is adopted and amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the **Oregon Residential Specialty Code** are placed in this rule, showing the section reference, a descriptive caption, and a short description of the amendment.

(2) Effective April 1, 2008:

(a) The 2006 Edition of the Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials and amended by the division is adopted as the plumbing provisions of the **Oregon Residential Specialty Code**; and

(b) The 2008 Edition of the NFPA 70, National Electrical Code as amended by the division is adopted as the electrical provisions of the **Oregon Residential Specialty Code**. See OAR chapter 918, division 305 for Oregon amendments to NFPA 70, National Electrical Code.

(c) Effective April 1, 2007, Appendix N, Low-Rise Multiple-Family Dwelling Construction is moved from the 2005 Oregon Residential Specialty Code to the **2007 Oregon Structural Specialty Code**.

(3) During the phase-in period established in OAR 918-480-0005(3), plans designed to the **2005 Oregon Residential Specialty Code** must use the plumbing and electrical provisions included in that 2005 code; plans designed to the **2008 Oregon Residential Specialty Code** must use the plumbing and electrical provisions adopted in this rule.

(4) Effective October 1, 2008, the **2008 Oregon Residential Specialty Code** is amended as follows:

(a) Section R 109.1.4.1 is deleted and replaced with the following: The requirement in R318.2 that all moisture-sensitive wood framing members used in construction shall have a moisture content of not more than 19 percent of the weight of dry wood framing members is not subject to inspection by the authority having jurisdiction.

(b) Section R318.2 is amended to read: Moisture content. Prior to issuance of the insulation/vapor barrier approval required by R109.1.5.2 of this code:

(A) All moisture-sensitive wood framing members used in construction shall have a moisture content of not more than 19 percent of the weight of dry wood framing members.

(B) The general contractor or the owner who was issued the structural permit shall notify the building official, on a division-approved form, that the contractor or the owner who was issued the structural permit is aware of and has taken steps to meet the requirement in paragraph (A).

[Publications: Publications referenced are available for review at the division. See division web site for information on where to purchase publications.]

Stat. Auth.: ORS 455.020, 455.110, 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. 7-1-08, cert. ef. 7-3-08 thru 12-30-08; BCD 21-2008, f. 9-30-08, cert. ef. 10-1-08

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Rule Caption: Clarifies guidelines and procedures for assessing civil penalties.

Adm. Order No.: BCD 22-2008

Filed with Sec. of State: 9-30-2008

Certified to be Effective: 10-1-08

Notice Publication Date: 9-1-2008

Rules Amended: 918-001-0036

Subject: The rule clarifies the guideline for assessing civil penalties. The division is adopting an updated penalty matrix for use by the boards in assessing civil penalties for violations of the state building code, administrative directives or rules, etc. This rule was amended to clarify definitions and procedures governing civil penalties.

Rules Coordinator: Shauna Parker—(503) 373-7438

918-001-0036

Guidelines for Civil Penalties

(1) Scope and Authority. This rule sets guidelines for assessing a civil penalty under ORS 446.995 & 455.895.

(2) Definitions. For the purposes of this rule:

(a) "Continuing offense" or "continuing violation" means violation of a code, rule or law on one or more additional days after having been notified of the violation or ordered to correct the act, or the failure to act. A continuing violation is subject to a civil penalty each day the violation continues after notification.

(b) A "directive" includes, but is not limited to, a notice or warning, citation, order, consent decree or settlement agreement, rule, law, code requirement, or agency interpretation.

(c) "Pattern of violation" means two or more prior violations during a given period of any provision of ORS Chapter 446, 447, 455, 460, 479, 480, or 693, or the state building code as defined in 455.010, whether or not a penalty was assessed.

(A) For violations by volunteers performing unlicensed work, supervisor and business violations, and failures to comply with corrective orders, a pattern of violation is calculated within a three-year period from the date of the latest violation.

(B) For scope of license violations, violations concerning other unlicensed activities, failure to obtain license and permit, failure to comply with a previous directive, or violations resulting in unsafe installations or health and safety hazards, a pattern of violation is calculated within a five-year period from the date of the latest violation.

(3) A licensed person or contractor who performs an act resulting in an unsafe installation or a health and safety hazard, structural or financial damage, performs or allows another to perform work requiring a license without an appropriate license, violates a previous directive, or exhibits a pattern of violation may have their license, registration or certificate conditioned, suspended, or revoked.

(4) Civil penalties may be assessed by a board, the administrator, or a board's designee acting as agent for a board. A board or the administrator may take into account any appropriate factors, including previous directives, in determining the penalty amount or conditions within an order. The statutorily defined maximum penalty may only be assessed upon a finding of a pattern of violation.

(5) Civil penalties may be assessed in addition to, or in lieu of, the conditioning, suspension, or revocation of a license, certificate of competency, or similar authority issued by the division.

(6) The division may, subject to approval of a board, develop a penalty matrix for the board's use to promote equity and uniformity in proposing the amount and terms of civil penalties and conditions under which the penalties may be modified based on the circumstances in individual cases.

(7) If a dispute concerning the application of the state building code as defined in ORS 455.010 is appealed to a local appeals board, to a board under 455.690 or to the program chief under 455.475:

(a) A civil penalty that is being appealed, may be stayed until after resolution of the appeal or interpretation. If corrections are necessary, a civil penalty may be stayed for 30 calendar days or the time frame established in the appeal or in the interpretation process.

(b) An administrative appeal will not stay civil penalties when they were assessed for failure to obtain a permit unless the appeal involves determining whether a permit was necessary.

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(c) The person seeking the appeal or interpretation has the obligation to notify the division of the appeal for the purpose of granting a stay of the civil penalty.

(8) Violations of ORS Chapters 446, 447, and 479 and 455.020(2) and 455.610, wherein defects are noted by an inspector in an element of assembly or construction, shall not be considered a violation for the purposes of this section if the violation is corrected and an inspection request made in 20 calendar days unless extended in writing by the building official.

(9) The Building Codes Division shall forward a copy of final orders to the Construction Contractors Board.

Stat. Auth.: ORS 446.995 & 455.895

Stats. Implemented: ORS 446.995 & 455.895

Hist.: BCD 35-2002, f. 12-31-02, cert. ef. 1-1-03; BCD 10-2005, f. 4-29-05, cert. ef. 5-1-05;

BCD 22-2008, f. 9-30-08, cert. ef. 10-1-08

Rule Caption: Clarifies how a local government may assume responsibility for administering an electrical program from division.

Adm. Order No.: BCD 23-2008

Filed with Sec. of State: 9-30-2008

Certified to be Effective: 10-1-08

Notice Publication Date: 9-1-2008

Rules Amended: 918-308-0010, 918-308-0020, 918-308-0030, 918-308-0040, 918-308-0060, 918-308-0090, 918-308-0130, 918-308-0150, 918-308-0170, 918-308-0180, 918-308-0210, 918-308-0300, 918-308-0330

Rules Repealed: 918-308-0010(T), 918-308-0020(T), 918-308-0040(T)

Subject: These rules clarify the process and procedures under which a local government may assume responsibility to administer and enforce the electrical program from the state. Because of the first-hand knowledge that the division possesses in the operation of its programs, there is a different assumption process for a local government when assuming the electrical program in division administered regions, as opposed to assumptions from other local governments. This rulemaking clarifies the different process.

Rules Coordinator: Shauna Parker—(503) 373-7438

918-308-0010

Standards for Delegation

Administration and enforcement of the electrical program shall only be delegated under ORS 479.855 to municipalities meeting the following minimum performance standards:

(1) The municipality shall be ready, willing and able to fully operate the electrical program on the effective date of delegation, July 1, except when a municipality is assuming the program from the division.

(2) The municipality shall create and maintain minimum services at least reasonably the same level as the electrical administrative, enforcement, and inspection services presently provided to the area. Minimum administrative, enforcement, and inspection services include the "Ongoing Requirements" in the Electrical Delegation Rules.

(3) Operation of the program shall be financially feasible without unduly increasing short or long-term costs of electrical inspection services to the public, both in the areas delegated and, if applicable, the remaining program in the surrounding area.

(4) The municipality shall demonstrate its ability to carry out the proposed electrical program.

(5) The requirements in the Electrical Delegation Rules are in addition to rules adopted by the department in OAR 918-020-0070 through 918-020-0220 for municipalities that apply to undertake inspection programs.

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.855, 455.148 & 455.150

Hist.: BCA 21-1993, f. 10-5-93, cert. ef. 12-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96;

Renumbered from 918-300-0100; BCD 8-2008(Temp), f. & cert. ef. 6-19-08 thru 12-15-08;

BCD 23-2008, f. 9-30-08, cert. ef. 10-1-08

918-308-0020

Check List for Application for Delegation of Electrical Program

Except when a municipality requests responsibility for an electrical program administered by the division, a municipality seeking delegation or renewal of delegation of the electrical program shall:

(1) Comply with ORS 455.148 or 455.150; and

(2) File an application for delegation of the electrical program under the Electrical Delegation Rules, if the municipality is applying for delegation for the first time. The application shall:

(a) Be filed by the governing body of the municipality by October 1 prior to the year for which delegation is sought;

(b) Be based on a resolution of the municipality formally authorizing the application, and representing if the application is granted, that the municipality and all persons under it will comply with and be bound by the Electrical Delegation Rules;

(c) Include a proposed ordinance for administration and enforcement of the electrical program;

(d) Include an operating plan showing it meets the minimum standards for delegation in the Electrical Delegation Rules; and

(e) Note any differences in services or inspections from present services and inspections to be provided upon delegation.

(3) If the municipality is requesting its first renewal, it shall file relevant amendments or updates to its initial application and note this is its first renewal application.

(4) A municipality requesting delegation of the electrical program administered by the division must meet the requirements of ORS 455.148(7) and 11(c). Notwithstanding the timelines in 455.148(11)(c), a municipality assuming the program from the division must submit an assumption plan prior to administering the program.

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.855, 455.148 & 455.150

Hist.: BCA 21-1993, f. 10-5-93, cert. ef. 12-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96;

Renumbered from 918-300-0130; BCD 28-2002(Temp), f. & cert. ef. 10-1-02 thru 3-29-03;

BCD 36-2002, f. 12-31-02, cert. ef. 1-1-03; BCD 8-2008(Temp), f. & cert. ef. 6-19-08 thru

12-15-08; BCD 23-2008, f. 9-30-08, cert. ef. 10-1-08

918-308-0030

Check List for Proposed Ordinance

The proposed ordinance establishing the municipal electrical program shall, among other things, adopt:

(1) The **Oregon Electrical Specialty** and **Oregon Residential Specialty Codes** by reference;

(2) Identical or compatible administrative provisions for the electrical program, including requirements for permits and authority to issue stop work and correction orders;

(3) Enforcement authority dealing with persons who start work without permits, fail to call for inspections, fail to make corrections, or otherwise violate the electrical requirements;

(4) Plan review requirements, if any;

(5) Minor label and bulk label procedures, as applicable;

(6) Temporary permit procedures; and

(7) Electrical fees.

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

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.855, 455.148 & 455.150

Hist.: BCA 21-1993, f. 10-5-93, cert. ef. 12-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96;

Renumbered from 918-300-0140; BCD 23-2008, f. 9-30-08, cert. ef. 10-1-08

918-308-0040

Check List for Operating Plan and Documentation

An "operating plan" is the municipality's strategy for carrying out the goals and objectives of its electrical inspection program. "Strategy" means what, how, and when it will be done. The operating plan for a municipality assuming the electrical program from another municipality shall include:

(1) Strategies and written agreements, where relevant, for handling the transition from the losing municipality to applicant, including arrangements made for:

(a) Open permits and inspections ongoing as of July 1;

(b) Enforcement actions pending on July 1;

(c) Being fully operational on July 1, including staffing and training of permit and other personnel;

(d) Informing contractors and others of the changeover of inspecting jurisdictions, jurisdictional boundaries and requirements covering permits and procedures, inspection procedures, temporary permit procedures, plan review requirements, and fees; and

(e) Employees presently providing the electrical inspection services in the area covered by the application and how applicant will deal with ORS 236.605:

(A) If the matter was resolved by the applicant and losing jurisdiction, or with the jurisdiction and the inspector, provide a copy of the agreement and a statement by applicant's municipal counsel that all employee rights under ORS 236.605 were preserved;

(B) Any assertion that ORS 236.605 is not applicable to the transaction must be from applicant's municipal counsel.

(2) Strategies for electrical operations including:

(a) Inspectors and inspections:

(A) When will certified electrical inspectors be hired, how will applicant be operational by July 1, and how will inspectors be used to carry out the program;

(B) Where more than one inspection office is involved, how will inspectors be deployed;

(C) If the electrical program is offered jointly with another municipality or parts of another municipality, the agreement between municipali-

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ties, which ordinances will apply in the different areas, what offices and staff assignments will be made and what boundaries are involved; and

(D) If electrical services will be provided by a contractor, the operating plan to be followed including inspection, coverage of prolonged absences and administration and an agreement by the contractor to be bound by the Electrical Delegation Rules.

(b) Code interpretations. How will code interpretations be provided and when will electrical inspectors be available to provide them. This should cover each office;

(c) Conflict resolution. How will conflicts in electrical code interpretations between inspectors, or inspectors and the public, be resolved at the local level, what rights of appeal will the public be advised of, and how will conflicts of interest involving staff be resolved;

(d) Plan review. Will plan review be required and if so, which installations require plan review;

(e) Turn-around time. What will be the response time to inspection requests, what correction notices will be used, when will reinspection be required, and how and where will permit and inspection records be kept. If a contractor is used, will contractor records be made available at the municipality's offices in the event of a review of electrical operations. Attach related forms to be used;

(f) Enforcement. How and when will license checks and permit and code compliance be monitored, who will be involved and how will corrections be enforced. If the electrical inspector is not full time with the municipality, who will do license checks and other enforcement during the inspector's absence;

(g) Use of labels. What labels will be used and what internal procedures will be followed for minor installation labels and bulk labels if the municipality uses bulk labels;

(h) Temporary permits. What temporary permit procedures are adopted by the municipality to deal with OAR 918, division 309 or for days during a regular workweek when the municipality is not open for permit sales;

(i) Forms and records. What electrical permit application, appeal, and other forms will be used and where will formal permit and inspection records be kept. Attach forms;

(j) Accounting. How will electrical revenues, direct and indirect including interest earned, be segregated from other revenues and accounted for; how will payments from and charges to that account be accounted for; and if there are electrical surpluses, will these be carried over for the electrical program between fiscal years. How will overhead, including all administrative costs, be allocated;

(k) Projections. What is applicant's projection for electrical income and expenses for the fiscal period for which the application is filed and what assumptions, such as growth or increased inspections, are relied on. What are the projections for following periods if losses are projected for the first period. If losses are projected, how these will be funded. If a contractor is used, show projections for the municipality and the contractor.

(l) Contingency plan. A plan for "back-up" inspection services.

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.855, 455.148 & 455.150

Hist.: BCA 21-1993, f. 10-5-93, cert. ef 12-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-300-0150; BCD 8-2008(Temp), f. & cert. ef. 6-19-08 thru 12-15-08; BCD 23-2008, f. 9-30-08, cert. ef. 10-1-08

918-308-0060

Review and Approval Process

(1) The division shall, after review of the application, submit the application to the board for comments and recommendations, and grant or deny the application, or seek clarification or corrections. If additional information or technical corrections are necessary, comments may be provided and the municipality may be allowed to submit changes.

(2) If a complete and acceptable plan is not on file by January 1, the request for delegation shall be denied for that year. An extension may be granted if agreed to by the municipality, division, and county involved, if the municipality is a city.

(3) If a municipality whose authority was previously revoked reapplies for delegation of the electrical program, it shall, in addition to its application, show how past deficiencies were corrected and how they will be prevented in the future.

(4) A new delegation of authority shall be provisional for a year. A municipality receiving a provisional delegation shall amend its application, if necessary, to reflect desired changes. If no amendments are filed by January 1, the prior application shall be used. The division shall make site visitations as necessary to inform itself of how the electrical program is being administered and how the operating plan is being followed and file its report with the application. Once the application is renewed no new applications are necessary unless the delegation is revoked or yielded by the municipality.

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.855, 455.148 & 455.150

Hist.: BCA 21-1993, f. 10-5-93, cert. ef 12-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-300-0170; BCD 28-2002(Temp), f. & cert. ef. 10-1-02 thru 3-29-03; BCD 36-2002, f. 12-31-02, cert. ef. 1-1-03; BCD 23-2008, f. 9-30-08, cert. ef. 10-1-08

918-308-0090

Employment of Electrical Specialty Code Electrical Inspector

(1) Each municipality shall employ at least one electrical inspector certified to inspect under the Oregon Electrical Specialty Code. This requirement may be satisfied by contracting with another municipality having a qualified inspector. Regardless of how the staffing is provided, the minimum operating requirements in these rules shall also be met.

(2) The municipality shall provide the division with names and qualifications of its certified inspectors for general electrical and for one- and two-family dwelling inspections.

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

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.855, 455.148 & 455.150

Hist.: BCA 21-1993, f. 10-5-93, cert. ef 12-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-300-0250; BCD 23-2008, f. 9-30-08, cert. ef. 10-1-08

918-308-0130

Electrical Permits

Notwithstanding OAR 918-309-0010, which requires uniform permit forms and procedures, a municipality may include legal descriptions of the property where the electrical installation will be made or other information on the electrical permit application as long as the permit applicant is not required to provide the information.

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.855, 455.148 & 455.150

Hist.: BCA 21-1993, f. 10-5-93, cert. ef 12-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-300-0290; BCD 23-2008, f. 9-30-08, cert. ef. 10-1-08

918-308-0150

Plan for Inspection Operations

The municipality shall:

(1) Offer and provide inspection services within its service area excluding weekends and holidays, to meet the electrical 48-hour inspection notice requirements in the inspection section of the electrical rules.

(2) Establish a written policy showing estimated response time for inspection requests, how and when correction notices will be used, when reinspection will be required, and how and where permit and inspection records will be kept.

(3) Provide inspections normally between 7 a.m. and 6 p.m. unless otherwise agreed to by the inspecting authority and the permit holder.

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.855, 455.148 & 455.150

Hist.: BCA 21-1993, f. 10-5-93, cert. ef 12-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-300-0320; BCD 23-2008, f. 9-30-08, cert. ef. 10-1-08

918-308-0170

Accounting Plan

The municipality shall have an accounting system which segregates electrical revenues, shows the source of electrical income including interest earned on held funds, shows charges, and where electrical revenues were spent. If overhead charges to the inspecting organization are based on allocations, the allocations must be supportable under general accounting principles.

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.855, 455.148 & 455.150

Hist.: BCA 21-1993, f. 10-5-93, cert. ef 12-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-300-0340; BCD 23-2008, f. 9-30-08, cert. ef. 10-1-08

918-308-0180

Formation of Municipal Program

(1) Municipalities combining electrical programs shall, to the extent practicable, centralize administration and use similar procedures, regulations, permit application, and permit fees within the area served.

(2) Nothing in this rule prevents a municipality from being served by more than one combination of municipalities.

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.855, 455.148 & 455.150

Hist.: BCA 21-1993, f. 10-5-93, cert. ef 12-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-300-0350; BCD 23-2008, f. 9-30-08, cert. ef. 10-1-08

918-308-0210

Automatic Renewal

(1) A municipality finishing its first term of operations under its delegation must reapply for delegation the second term as provided in the Electrical Delegation Rules.

(2) Subject to OAR 918-020-0070 through 918-020-0220, once a municipality receives a renewal of delegation when it provides subsequent timely notice prior to January 1, as required by ORS 455.148 and 455.150, the electrical delegation is continued without further action by the division, unless during the interim the division revokes the delegation.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 479.730
Stats. Implemented: ORS 479.855, 455.148 & 455.150
Hist.: BCA 21-1993, f. 10-5-93, cert. ef. 12-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-300-0420; BCD 28-2002(Temp), f. & cert. ef. 10-1-02 thru 3-29-03; BCD 36-2002, f. 12-31-02, cert. ef. 1-1-03; BCD 23-2008, f. 9-30-08, cert. ef. 10-1-08

918-308-0300

Review of Municipality Program

(1) The division shall conduct a comprehensive review of each municipality delegated administration of the electrical program at least every five years.

(2) A comprehensive review shall be conducted by a minimum team of:

- (a) One local building official;
- (b) One electrical contractor or contractor's representative;
- (c) Division chief electrical inspector or **Oregon Electrical Specialty Code** inspector if the chief inspector is unable to serve; and

(d) One division representative;

(e) Optionally, a general contractor registered with the Construction Contractors Board, if nominated by the municipality involved;

(f) Optionally, additional persons, depending on the size and complexity of the municipality involved, as determined and selected by the division.

(3) A single-purpose review shall be conducted by the division chief electrical inspector or designee and others selected by the division if the operations of the municipality are at variance with its approved operating plan.

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

Stat. Auth.: ORS 479.730
Stats. Implemented: ORS 479.855, 455.148 & 455.150
Hist.: BCA 11-1988, f. & cert. ef. 7-20-88; BCA 21-1993, f. 10-5-93, cert. ef. 12-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-303-0010; BCD 23-2008, f. 9-30-08, cert. ef. 10-1-08

918-308-0330

Review of Records

(1) The municipality shall maintain and make records available for division review. For the purpose of this rule except where the context requires otherwise, a "previous year" is the last full fiscal year for the municipality. The required records are:

- (a) Electrical permits issued during the previous two years;
- (b) Minor installation labels issued during the previous year;
- (c) Inspections performed by electrical inspectors during the previous fiscal year;

(d) Written code interpretations made during the previous two years;

(e) Written or recorded complaints about the program lodged with the municipality and disposition of the matters for the previous fiscal year; and

(f) Records of revenues from electrical permits, inspections, and penalties, and expenses incurred in the administration and enforcement of the electrical program for the previous fiscal year.

(2) The municipality shall report the number of electrical, structural, mechanical, plumbing, and manufactured structures set-up permits issued, the number of minor labels issued, and the number of electrical inspections performed by the municipality during the previous fiscal year.

(3) The program review team:

(a) Will review the operating plan for program delegation submitted to the division under these rules to determine if the municipality is following the plan;

(b) May require additional financial information if municipal records do not satisfactorily show application of permit and inspection funds, including interest, to the electrical program or shows charges not related to the electrical program.

Stat. Auth.: ORS 479.730
Stats. Implemented: ORS 479.855, 455.148 & 455.150
Hist.: BCA 11-1988, f. & cert. ef. 7-20-88; BCA 21-1993, f. 10-5-93, cert. ef. 12-1-93; BCD 19-1996, f. 9-17-96, cert. ef. 10-1-96, Renumbered from 918-303-0040; BCD 23-2008, f. 9-30-08, cert. ef. 10-1-08

Rule Caption: Interim amendments to the 2008 Oregon Residential Specialty Code regarding seismic and window sill safety.

Adm. Order No.: BCD 24-2008(Temp)

Filed with Sec. of State: 10-6-2008

Certified to be Effective: 10-6-08 thru 4-1-09

Notice Publication Date:

Rules Amended: 918-480-0010

Subject: The proposed rule contains two interim amendments to the 2008 Oregon Residential Specialty Code (ORSC). The first interim amendment adds a new section R602.10.9, which establishes requirements for interior braced wall support in dwellings built under the ORSC located in Seismic Design Categories D1 and D2. The second

interim amendment adds a new section R613.2, which establishes height and glazing requirements for window sills in dwelling units.

Rules Coordinator: Shauna Parker—(503) 373-7438

918-480-0010

Amendments to the Oregon Residential Specialty Code

(1) The **Oregon Residential Specialty Code** is adopted and amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the **Oregon Residential Specialty Code** are placed in this rule, showing the section reference, a descriptive caption and a short description of the amendment.

(2) Effective April 1, 2008:

(a) The **2006 Edition of the Uniform Plumbing Code**, as published by the International Association of Plumbing and Mechanical Officials and amended by the division, is adopted to provide the plumbing provisions of the **Oregon Residential Specialty Code**; and

(b) The **2008 Edition of the NFPA 70, National Electrical Code** as amended by the division is adopted to provide the electrical provisions of the **Oregon Residential Specialty Code**. See OAR chapter 918, division 305 for Oregon amendments to **NFPA 70, National Electrical Code**.

(3) Effective April 1, 2007 Appendix N, Low-Rise Multiple-Family Dwelling Construction is moved from the **2005 Oregon Residential Specialty Code** to the **2007 Oregon Structural Specialty Code**.

(4) During the phase-in period established in OAR 918-480-0005(3), plans designed to the **2005 Oregon Residential Specialty Code** must use the plumbing and electrical provisions included in that 2005 code. Plans that are designed to the **2008 Oregon Residential Specialty Code** must use the plumbing and electrical provisions adopted in this rule.

(5) Effective October 1, 2008, the **2008 Oregon Residential Specialty Code** is amended as follows:

(a) Section R 109.1.4.1 is deleted and replaced with the following: The requirement in R318.2 that all moisture-sensitive wood framing members used in construction shall have a moisture content of not more than 19 percent of the weight of dry wood framing members is not subject to inspection by the authority having jurisdiction.

(b) Section R318.2 is amended to read: Moisture content. Prior to issuance of the insulation/vapor barrier approval required by R109.1.5.2 of this code:

(A) All moisture-sensitive wood framing members used in construction shall have a moisture content of not more than 19 percent of the weight of dry wood framing members.

(B) The general contractor or the owner who was issued the structural permit shall notify the building official, on a division-approved form, that the contractor or the owner who was issued the structural permit is aware of and has taken steps to meet the requirement in paragraph (A).

(6)(a) Effective upon adoption of this subsection, the **2008 Oregon Residential Specialty Code** is amended as follows:

(b) Section R602.10.9 is amended to read: R602.10.9 Interior braced wall support. In buildings located in Seismic Design Category D₁ and one-story buildings located in Seismic Design Category D₂, interior braced wall lines shall be supported on continuous foundations at intervals not exceeding 70 feet (21,336 mm). Braced wall panels located in interior braced wall lines at less than 70-foot (21,336 mm) intervals shall be supported by double floor joists or blocking between floor joists. Where floor joists are perpendicular to the braced wall line, blocking shall be provided for the length of braced panel and shall extend to the next available joist below for braced panels whose ends are not aligned with joists below. The length to width ratio of the horizontal diaphragm supporting interior braced wall lines shall not exceed 4 to 1. Use of alternate braced panels in interior braced wall lines is not permitted.

(7) Effective upon adoption of this subsection, the **2008 Oregon Residential Specialty Code** is amended to include, as a new section:

(a) R613.2 Window sills. In dwelling units, where the opening of an operable window is located more than 72 inches (1829 mm) above the finished grade or surface below, the lowest part of the clear opening of the window shall be a minimum of 24 inches (610 mm) above the finished floor of the room in which the window is located. Glazing between the floor and 24 inches (610 mm) shall be fixed or have openings through which a 4-inch-diameter (102 mm) sphere cannot pass.

(b) Exceptions.

(A) Windows whose openings will not allow a 4-inch-diameter (102 mm) sphere to pass through the opening when the opening is in its largest opened position.

(B) Openings that are provided with window guards that comply with ASTM F 2006 or F 2090.

[Publications: Publications referenced are available for review at the division. See division web site for information on where to purchase publications.]

Stat. Auth.: ORS 455.020, 455.110, 455.525 & 455.610

Stats. Implemented: ORS 455.610

ADMINISTRATIVE RULES

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. 7-1-08, 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

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

Rule Caption: 2009 Workers' Compensation Premium Assessment Rates.

Adm. Order No.: DO 2-2008

Filed with Sec. of State: 10-1-2008

Certified to be Effective: 1-1-09

Notice Publication Date: 8-1-2008

Rules Amended: 440-045-0020, 440-045-0025

Subject: The director adopts by rule the workers' compensation premium assessment rate that is paid by all employers based on their workers' compensation premium and is collected by the insurer at the time the employer pays the premium. This assessment is used to fund workers' compensation related programs and workplace safety and health programs that serve Oregon employers and workers. In addition, the rule adopts the rate for an additional assessment percentage amount that is collected from all self-insured employers as well as all self-insured employer groups to fund the Self-Insured Adjustment Reserve and the Self-Insured Employer Group Adjustment Reserve. These reserves are established to assure benefits are available in the event of a financial failure or a self-insured employer or self-insured employer group. These rules establish the assessment rate for calendar year 2009.

Rules Coordinator: Kristen Miller—(503) 947-7866

440-045-0020

Assessment Rate

The assessment to be levied against insurers, self-insured employers and self-insured employer groups for Calendar Year 2009 shall be 4.6 percent of direct earned premium and the direct earned premium self-insured employers and self-insured employer groups would have paid had they been insured employers.

Stat. Auth.: ORS 656.612, 656.726 & 705.135

Stats. Implemented: ORS 656.612 & 656.614

Hist.: DO 2-1999, f. 10-1-99, cert. ef. 1-1-00; DO 1-2000, f. 10-11-00; DO 3-2001, f. 10-22-01, cert. ef. 1-1-02; DO 4-2002, f. 10-17-02 cert. ef. 1-1-03; DO 3-2003, f. 10-22-03, cert. ef. 1-1-04; DO 1-2004 f. 10-21-04 cert. ef. 1-1-05; DO 1-2005, f. 10-20-05, cert. ef. 1-1-06; DO 3-2006, f. 10-19-06, cert. ef. 1-1-07; DO 1-2007, f. 10-4-07, cert. ef. 1-1-08; DO 2-2008, f. 10-1-08, cert. ef. 1-1-09

440-045-0025

Adjustment Reserve Rate

In addition to the assessments established in OAR 440-045-0020, self-insured employer groups and self insured employers for the Calendar Year 2009 shall be assessed an additional 0.2 percent to fund the Self-Insured Employer Group Adjustment Reserve and the Self-Insured Employer Adjustment Reserve.

Stat. Auth.: ORS 656.612, 656.726, & 705.135

Stats. Implemented: ORS 656.612 & 656.614

Hist.: DO 2-1999, f. 10-1-99, cert. ef. 1-1-00; DO 1-2000, f. 10-11-00, cert. ef. 1-1-01; DO 3-2001, f. 10-22-01, cert. ef. 1-1-02; DO 4-2002, f. 10-17-02 cert. ef. 1-1-03; DO 3-2003, f. 10-22-03, cert. ef. 1-1-04; DO 1-2004 f. 10-21-04 cert. ef. 1-1-05; DO 1-2005, f. 10-20-05, cert. ef. 1-1-06; DO 3-2006, f. 10-19-06, cert. ef. 1-1-07; DO 1-2007, f. 10-4-07, cert. ef. 1-1-08; DO 2-2008, f. 10-1-08, cert. ef. 1-1-09

Department of Consumer and Business Services, Division of Finance and Corporate Securities Chapter 441

Rule Caption: Adopts contact information required for inclusion in foreclosure notice form.

Adm. Order No.: FCS 9-2008

Filed with Sec. of State: 10-15-2008

Certified to be Effective: 10-16-08

Notice Publication Date: 9-1-2008

Rules Amended: 441-505-3046, 441-710-0540, 441-730-0246, 441-850-0042

Subject: These permanent rules implement section 20 of HB 3630 (2008). Section 20(1) of HB 3630 specifies the content for a foreclosure notice that must be delivered to a homeowner. Section 20(2) of the bill requires this agency to adopt by rule contact information that the sender must provide in the foreclosure notice, including a statewide contact telephone numbers and a website address for the Oregon State Bar's Lawyer Referral Service, and a website address for a directory of legal aid programs. These rules describe that contact information.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-505-3046

Contents of Foreclosure Notices

The sender of a notice form required by 2008 Or Laws, ch. 19, § 20 must enter in the form and format adopted by this rule:

(1) The statewide telephone contact number for handling consumer queries as 800-SAFENET (800-723-3638)

(2) The telephone number of the Oregon State Bar's Lawyer Referral Service as 503-684-3763;

(3) The Oregon State Bar's Lawyer Referral Service toll-free number as 800-452-7636;

(4) The website address of the Oregon State Bar as <http://www.osbar.org>;

(5) The website address for the organization providing more information and a directory of legal aid programs as <http://www.oregonlawhelp.org>

Stat. Auth.: 2008 OL, ch. 19, § 20

Stat. Implemented: 2008 OL, ch. 19, § 20

Hist.: FCS 9-2008, f. 10-15-08, cert. ef. 10-16-08

441-710-0540

Contents of Foreclosure Notices

The sender of a notice form required by 2008 Or Laws, ch. 19, § 20 must enter in the form and format adopted by this rule:

(1) The statewide telephone contact number for handling consumer queries as 800-SAFENET (800-723-3638)

(2) The telephone number of the Oregon State Bar's Lawyer Referral Service as 503-684-3763;

(3) The Oregon State Bar's Lawyer Referral Service toll-free number as 800-452-7636;

(4) The website address of the Oregon State Bar as <http://www.osbar.org>;

(5) The website address for the organization providing more information and a directory of legal aid programs as <http://www.oregonlawhelp.org>

Stat. Auth.: 2008 OL, ch. 19, § 20

Stat. Implemented: 2008 OL, ch. 19, § 20

Hist.: FCS 9-2008, f. 10-15-08, cert. ef. 10-16-08

441-730-0246

Contents of Foreclosure Notices

The sender of a notice form required by 2008 Or Laws, ch. 19, § 20 must enter in the form and format adopted by this rule:

(1) The statewide telephone contact number for handling consumer queries as 800-SAFENET (800-723-3638)

(2) The telephone number of the Oregon State Bar's Lawyer Referral Service as 503-684-3763;

(3) The Oregon State Bar's Lawyer Referral Service toll-free number as 800-452-7636;

(4) The website address of the Oregon State Bar as <http://www.osbar.org>;

(5) The website address for the organization providing more information and a directory of legal aid programs as <http://www.oregonlawhelp.org>

Stat. Auth.: 2008 OL, ch. 19, § 20

Stat. Implemented: 2008 OL, ch. 19, § 20

Hist.: FCS 9-2008, f. 10-15-08, cert. ef. 10-16-08

441-850-0042

Contents of Foreclosure Notices

The sender of a notice form required by 2008 Or Laws, ch. 19, § 20 must enter in the form and format adopted by this rule:

(1) The statewide telephone contact number for handling consumer queries as 800-SAFENET (800-723-3638)

(2) The telephone number of the Oregon State Bar's Lawyer Referral Service as 503-684-3763;

(3) The Oregon State Bar's Lawyer Referral Service toll-free number as 800-452-7636;

ADMINISTRATIVE RULES

(4) The website address of the Oregon State Bar as <http://www.osbar.org>;

(5) The website address for the organization providing more information and a directory of legal aid programs as <http://www.oregonlawhelp.org>
Stat. Auth.: 2008 OL, ch. 19, § 20
Stat. Implemented: 2008 OL, ch. 19, § 20
Hist.: FCS 9-2008, f. 10-15-08, cert. ef. 10-16-08

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

Rule Caption: Health Insurance, Estimates of Enrollee Share of Costs for Covered Procedures and Services.

Adm. Order No.: ID 16-2008

Filed with Sec. of State: 9-24-2008

Certified to be Effective: 9-24-08

Notice Publication Date: 6-1-2008

Rules Adopted: 836-053-1401, 836-053-1406, 836-053-1410, 836-053-1415

Subject: This rulemaking proposes: to establish general principles for insurers to allocate covered procedures and services to the categories in ORS 743.874 for in-network procedures and services and the categories in ORS 743.876 for out-of-network procedures and services so that the insurer will be able to provide a reasonable estimate of an enrollee's share of costs for a procedure or service according to the legislation. The rules also provide for combined estimates, when two or more procedures or services will be performed, and requires that an estimate state whether it applies only to the costs specifically relating to the procedure or service alone or applies to an episode of care that includes the procedure or service. The rules also give guidance for insurers to make instructions available to consumers for obtaining estimates and benefit information under the legislation and specify data that insurers must report, to enable the Department to assess the effect of the disclosure requirements under ORS 743.874, 743.876 and 743.878.

Rules Coordinator: Sue Munson—(503) 947-7272

836-053-1401

Applicability

OAR 836-053-1400 to 836-053-1415 are adopted under the authority of ORS 743.893 to implement 743.874, 743.876 and 743.878.

Stat. Auth.: ORS 731.244 & 743.893

Stats. Implemented: ORS 743.874, 743.876 & 743.878

Hist.: ID 16-2008, f. & cert. ef. 9-24-08

836-053-1406

Definitions

(1) As used in ORS 743.874 and 743.876, "provider" means a person licensed, certified or otherwise authorized or permitted by laws of this state to administer medical or mental health services in the practice of a profession.

(2) As used in ORS 743.876, for the purpose of an insurer's procedure for providing an estimate of an enrollee's costs for a covered out-of-network procedure or service:

(a) The "allowable charge" for a covered procedure or service is the estimated amount established under the insurance policy, whether expressed as an "allowable charge," "allowable expense," "eligible fee" or other term denoting the amount on which the benefit is calculated.

(b) The "billed charge" is the estimated amount charged by a provider for performance of a procedure or service.

Stat. Auth.: ORS 731.244 & 743.893

Stats. Implemented: ORS 743.874 & 743.876

Hist.: ID 16-2008, f. & cert. ef. 9-24-08

836-053-1410

Procedures

(1) An insurer shall allocate covered procedures or services to the categories established in ORS 743.874(3) and 743.876(3) in a manner that will enable the insurer to provide a reasonable estimate of an enrollee's share of costs for a procedure or service. An insurer shall determine its allocation according to its Oregon block of business at least once every 12 months to ensure that the procedures and services are currently the most common procedures in the categories.

(2) When an insurer must provide to an enrollee a combined estimate for two or more procedures or services, the insurer shall apply its standard method of payment to arrive at the combined estimate or other payment

method that will achieve an accurate estimate. The insurer must disclose to the enrollee, along with an estimate under this section, that the estimate includes the costs of two or more procedures or services.

(3) An insurer shall disclose with an estimate whether the estimate applies only to those costs specifically relating to the procedure or service, such as is given in commonly used procedure codes, or applies to an episode of care that includes the procedure or service and its related costs.

(4) An insurer shall file with the Director, as required by the Director, the following information for the purpose of assessing the effect of the disclosure requirements in ORS 743.874 and 743.876:

(a) The number of requests for estimates under ORS 743.874 and 743.876, received by the insurer in a calendar year; and

(b) Of the requests in paragraph (a) of this subsection, the number of requests for in-network procedures and services and the number of requests for out-of-network procedures.

Stat. Auth.: ORS 731.244 & 743.893

Stats. Implemented: ORS 743.874, 743.876 & 743.878

Hist.: ID 16-2008, f. & cert. ef. 9-24-08

836-053-1415

Instructions

(1) An insurer shall make available to enrollees, by online access and by telephone, detailed instructions for obtaining estimates and benefit information under ORS 743.874 and 743.876. The instructions must do at least the following:

(a) Specify the information needed by the insurer to provide the estimate, including but not limited to information for identifying the procedure or service and the provider.

(b) Describe how an enrollee may obtain an estimate and find benefit information for an in-network procedure, and inform the enrollee that an estimate is not required by law to be provided for a procedure or service that is not included in the insurer's categories; and

(c) Must provide a general explanation for obtaining an estimate for an out-of-network procedure or service and must specify what information is needed for the most accurate estimates.

(2) An insurer may include in the instructions a statement that accuracy of an estimate depends on the specificity and accuracy of the information provided by the enrollee.

Stat. Auth.: ORS 731.244 & 743.893

Stats. Implemented: ORS 743.874 & 743.876

Hist.: ID 16-2008, f. & cert. ef. 9-24-08

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**Department of Consumer and Business Services,
Oregon Medical Insurance Pool Board
Chapter 443**

Rule Caption: Clarifies how former enrollees qualify for resumption of their suspended coverage when losing Medicare, Medicaid or group health insurance.

Adm. Order No.: OMIPB 7-2008(Temp)

Filed with Sec. of State: 9-29-2008

Certified to be Effective: 9-29-08 thru 3-27-09

Notice Publication Date:

Rules Amended: 443-002-0100

Subject: Clarifies how former OMIP enrollees qualify for resumption of their suspended coverage when losing Medicare, Medicaid, or group health insurance. Also replaces "member" with "enrollee" because enrollee is defined by rule and in contracts, therefore it is clear as to who this rule applies to.

Rules Coordinator: Linnea Saris—(503) 378-5672

443-002-0100

Member Suspension and Resumption of Coverage

(1) An OMIP enrollee who becomes eligible for Medicare or Medicaid may request a suspension of OMIP coverage.

(a) OMIP will suspend coverage effective on the first of the month in which the enrollee began receiving health care benefits for Medicare or Medicaid, and the suspension may remain in effect for a maximum of twelve months. After the twelve months the enrollee must reapply and qualify for OMIP coverage.

(b) OMIP will not collect premiums from the enrollee during the period of suspended coverage.

(c) If the enrollee loses eligibility for Medicare or Medicaid, the enrollee may request resumption of OMIP coverage.

(A) The request must be in writing to the Administrating Insurer no later than 63 days from the termination date for the Medicare or Medicaid coverage.

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(B) This reinstatement provision does not apply to OMIP enrollees who choose to terminate their Medicare or Medicaid coverage.

(d) The amount of the deductible met for the prior suspended OMIP coverage will carry over if the OMIP coverage is resumed within the same calendar year in which it was suspended.

(e) The enrollee will receive credit toward the six-month waiting period for pre-existing conditions based on the number of months the enrollee was previously covered by the OMIP contract and the number of months the enrollee was covered by Medicare or Medicaid, if the OMIP coverage is within twelve months from the time the coverage was suspended. If the enrollee requests resumption of coverage but OMIP no longer offers the same Contract, OMIP will offer coverage available through the most similar current OMIP Contract.

(2) An OMIP enrollee who becomes eligible for commercial group health care benefits may request a suspension of OMIP coverage.

(a) OMIP will suspend coverage effective at the first of the month in which the enrollee began receiving health care benefits from the commercial group insurer.

(b) OMIP will not collect premiums from the enrollee during the period of suspended coverage.

(c) If the enrollee loses eligibility for group health care coverage and no commercial COBRA, state continuation, or commercial portability coverage is available, the enrollee may request resumption of the OMIP coverage.

(A) The request must be in writing to the Administrating Insurer no later than 63 days from the termination date for the group health care coverage.

(B) This resumption provision does not apply to OMIP enrollees who choose to terminate their group health care benefits, including commercial COBRA or commercial portability.

(d) The amount of the deductible met for the prior suspended OMIP coverage will carry over if the OMIP coverage is resumed within the same calendar year in which it was suspended.

(e) The enrollee will receive credit toward the six-month waiting period for pre-existing conditions based on the number of months the enrollee was previously covered by the OMIP contract and the number of months the enrollee was covered by the group coverage, if the OMIP coverage is resumed within twelve months from the time the coverage was suspended. If the enrollee requests resumption of coverage but OMIP no longer offers the same Contract, OMIP will offer coverage available through the most similar current OMIP Contract.

Stat. Auth.: ORS 735.610(6) & 735.615

Stats. Implemented: ORS 735.600 - 735.650

Hist.: OMIPIB 2-2004, f. 12-30-04, cert. ef. 1-1-05; OMIPIB 1-2008, f. & cert. ef. 1-2-08; OMIPIB 7-2008(Temp), f. & cert. ef. 9-29-08 thru 3-27-09

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Department of Consumer and Business Services, Oregon Occupational Safety and Health Division Chapter 437

Rule Caption: Adopt changes to Division 1, Safety Committees with House Bill 2222.

Adm. Order No.: OSHA 9-2008

Filed with Sec. of State: 9-19-2008

Certified to be Effective: 1-1-09

Notice Publication Date: 8-1-2008

Rules Amended: 437-001-0203, 437-001-0765, 437-002-0182

Subject: Oregon OSHA amended Oregon Administrative Rules for Workplace Safety Committees. The rule change requires every public and private employer subject to Oregon-OSHA jurisdiction, with the exception of sole owners with single employee corporations and members of boards and commissions who do not participate in the every day operation of the company, to establish and administer an effective safety committee or conduct safety meetings. Other employers not covered by this rule include those engaged in agricultural activities, or forest activities, as they are required to have safety committees by the rules that govern their type of business. The changes apply to Division 1, General Administrative Rules, OAR 437-001-0765 Rules for Workplace Safety Committees. The changes are required as a result of the passing of House Bill 2222 by the 2007 Oregon Legislative Regular Session. House Bill 2222 also amended ORS 654.176 and 654.182.

Oregon OSHA reopened the proposed amendments to the Oregon Administrative Rules for Workplace Safety Committees. A need to further amend the proposed rule was recognized once public hearings were adjourned. Comments received at the public hearings in

January and February 2008 warranted further review and the Advisory Committee reconvened to discuss the issue of centralized safety committees and the current penalty structure for failure to comply with safety committee rules. As a result of those meetings, additional amendments to the rule were proposed and a public hearing held on August 28, 2008. Employers will be allowed to establish centralized safety committees when they have employees at multiple locations. They will be required to have a written safety and health policy outlining how the committee will function and represent the safety and health of all locations represented. Regular safety committees do not require this written policy.

These rules are intended to provide employers with options for formally addressing safety and health issues in their workplaces. Safety committees and safety meetings will provide a forum for effectively evaluating safety and health issues and for communicating the need to resolve those issues by involving all employees.

The rules in Division 1 also reflect a change in the penalty structure for violations of this rule. There will no longer be a mandatory penalty. Penalties for violations of this rule will be determined by an evaluation of the probability and severity factors used to determine penalty amounts for other violations.

Oregon OSHA amended OAR 437-001-0203, Determination of Penalty – Relating to Violations Which Have No Probability. The rule change removes paragraph (7) which will eliminate the minimum penalty of \$100 if an employer fails to establish a safety committee as required by OAR 437-001-0765. This allows Oregon OSHA to set penalties for failure to have an effective safety committee or hold effective safety meetings based on the hazards that the employer actually has.

Oregon OSHA also amended OAR 437-002-0182, Oregon Rules for Fire Fighters in Division 2/L. The rule change allows fire services to establish a fire service safety committee or opt for safety meetings based on employee numbers. The intent of this change is to clarify that every employer that does fire service work must have a separate safety committee and allows those companies that have 10 or fewer employees the option to simply hold effective safety meetings in accordance with the amendments to OAR 437-001-0765 in Division 1.

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Rules Coordinator: Sue C. Joye—(503) 947-7449

437-001-0203

Determination of Penalty — Relating to Violations Which Have No Probability and Severity

(1) Safety and Health Protection on the Job Poster. If the employer has not displayed the poster, a minimum penalty of \$100 may be assessed.

(2) Annual Summary — If an employer fails to post the summary portion of the OSHA 300 Form no later than February 1 of the year following the year covered by the records and keep it posted until April 30 in accordance with 437-001-0700(17)(d)(A), a minimum penalty of \$200 may be assessed.

(3) Citation — If an employer fails to post the citation after receipt, a minimum penalty of \$200 may be assessed.

(4) OSHA 300 and DCBS 801 Forms — If the employer does not maintain the Log and Summary of Occupational Injuries and Illnesses, OSHA 300 Form, and the Supplementary Record, DCBS Form 801 or equivalent, a minimum penalty of \$100 may be assessed for each OSHA form not maintained.

(5) Access to Records — If the employer fails upon request to provide records for inspection and copying by any authorized representative of OR-OSHA or by any employee, former employee, or authorized representative of employees, a minimum penalty of \$100 may be assessed for each form not made available.

(6) Flush Toilets/Warm Water Hand Washing Facilities — If an employer fails to provide flush toilets or warm water hand washing facilities on a construction site according to OAR 437-003-0020 in 437, division 3, Construction, a penalty of not less than \$200, nor more than \$2,500, shall be assessed.

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

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.086

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Hist.: APD 6-1987, f. 12-23-87, ef. 1-1-88; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 7-1992, f. 7-31-92, cert. ef. 10-1-92; OSHA 10-1995, f. & cert. ef. 11-29-95; OSHA 11-2001, f. 9-14-01, cert. ef. 1-1-02; OSHA 6-2003, f. & cert. ef. 11-26-03; OSHA 9-2008, f. 9-19-08, cert. ef. 1-1-09

437-001-0765

Safety Committees and Safety Meetings.

This rule requires employers to establish and administer a safety committee, or hold safety meetings, to communicate and evaluate safety and health issues. Purpose: The purpose of safety committees and safety meetings is to bring workers and management together in a non-adversarial, cooperative effort to promote safety and health. Safety committees and safety meetings will assist you in making continuous improvement to your safety and health programs. Scope: This rule applies to public or private employers in Oregon subject to Oregon OSHA jurisdiction, except as listed below.

You do not have to comply with this rule if you are:

The sole owner and only employee of a corporation;

A member of a board or commission and do not participate in the day-to-day activities of the company. You are not considered an employee for purposes of this rule.

Engaged in agricultural activities covered by Division 4, Subdivision C.

Engaged in forest activities covered by Division 7, Subdivisions B and C.

Division 2, Subdivision L OAR 437-002-0182(7) requires employers engaged in fire service activities to establish a separate fire service safety committee or opt for safety meetings if they meet the criteria in the following table.

You can choose a committee or meetings.

(1) You must establish and administer an effective safety committee or hold effective safety meetings as defined by these rules:

Table [Table not included. See ED. NOTE.]

Safety Committees

(2) If you have 20 or fewer employees you must have at least 2 members. If you have more than 20 employees you must have at least 4 members.

(3) You must have an equal number of employer-selected members and employee-elected or volunteer members. If both parties agree, the committee may have more employee-elected or volunteer members.

NOTE: Management can select a supervisor to represent them. Employees can elect a supervisor to represent them.

(4) Your safety committee members must:

Have a majority agree on a chairperson.

Serve a minimum of one year, when possible.

Be compensated at their regular rate of pay.

Have training in the principles of accident and incident investigations for use in evaluating those events.

Have training in hazard identification.

Be provided with meeting minutes.

Represent major activities of your business.

(5) Your safety committee must meet on company time as follows:

Quarterly in situations where employees do mostly office work.

Monthly for all other situations (except the months when quarterly worksite inspections are performed).

(6) You must keep written records of each safety committee meeting for three years that include:

Names of attendees.

Meeting date.

All safety and health issues discussed, including tools, equipment, work environment, and work practice hazards.

Recommendations for corrective action and a reasonable date by which management agrees to respond.

Person responsible for follow up on any recommended corrective actions.

All reports, evaluations and recommendations made by the committee.

(7) Your safety committee must establish procedures for conducting workplace safety and health inspections. Persons trained in hazard identification must conduct inspections as follows:

Table [Table not included. See ED. NOTE.]

(8) In addition to the above requirements, your safety committee must:

Work with management to establish, amend or adopt accident investigation procedures that will identify and correct hazards.

Have a system that allows employees an opportunity to report hazards and safety and health related suggestions.

Establish procedures for reviewing inspection reports and for making recommendations to management.

Evaluate all accident and incident investigations and make recommendations for ways to prevent similar events from occurring.

Make safety committee meeting minutes available for all employees to review.

Evaluate management's accountability system for safety and health, and recommend improvements. Examples include use of incentives, discipline, and evaluating success in controlling safety and health hazards.

(9) If you have multiple locations, you may choose to have a centralized safety committee. A centralized safety committee must represent the safety and health concerns of all locations and meet the requirements for safety committees. If you rely on a centralized committee, you must also have a written safety and health policy that:

Represents management commitment to the committee.

Requires and describes effective employee involvement.

Describes how the company will hold employees and managers accountable for safety and health.

Explains specific methods for identifying and correcting safety and health hazards at each location.

Includes an annual written comprehensive review of the committees' activities to determine effectiveness.

NOTE: Two or more employers at a single location may combine resources to meet the intent of these rules.

Safety Meetings

(10) Safety meetings must:

Include all available employees.

Include at least one employer representative authorized to ensure correction of safety and health issues.

Be held on company time and attendees paid at their regular rate of pay.

(11) Hold safety meetings with the following frequency if:

Table [Table not included. See ED. NOTE.]

(12) Safety meetings must include discussions of:

Safety and health issues.

Accident investigations, causes, and the suggested corrective measures.

(13) Employers in construction, utility work and manufacturing must document, make available to all employees, and keep for three years a written record of each meeting that includes the following:

Hazards related to tools, equipment, work environment and unsafe work practices identified and discussed during the meeting.

The date of the meeting.

The names of those attending the meeting.

All other employers do not need to keep these records if all employees attend the safety meeting.

(14) If you are a subcontractor on a multi-employer worksite, to meet the intent of (11) through (13), your employees may attend the prime contractor's safety meetings. You may keep the minutes from these meetings as a part of your records to meet the intent of (13). If you choose this option, you must still meet to discuss accidents involving your employees.

(15) Innovation. After you apply, OR-OSHA may grant approval for safety committees or safety meetings that differ from the rule requirements yet meet the intent of these rules.

(16) Effective Dates. The effective date for compliance with this rule is January 1, 2009. For employers with 10 or fewer employees, other than those in construction, the effective date is September 19, 2009.

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

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.176

Hist.: WCD 10-1982, f. & ef. 7-30-82; OSHA 12-1990(Temp), f. & cert. ef. 6-18-90; OSHA 28-1990, f. 12-18-90, cert. ef. 3-1-91; OSHA 6-1994, f. & cert. ef. 9-30-94, Renumbered from 437-040-0044, 437-040-0045, 437-040-0046, 437-040-0047, 437-040-0048 & 437-040-0049; OSHA 10-1995, f. & cert. ef. 11-29-95; OSHA 8-2001, f. & cert. ef. 7-13-01; OSHA 6-2003, f. & cert. ef. 11-26-03; OSHA 7-2006, f. & cert. ef. 9-6-06; OSHA 9-2008, f. 9-19-08, cert. ef. 1-1-09

437-002-0182

Oregon Rules for Fire Fighters.

(1) Scope and Application.

(a) These rules shall apply to any and all activities, operations and equipment of employers and employees involved in providing fire protection services, and other emergency first response and related activities, which are subject to the provisions of the Oregon Safe Employment Act. These rules shall not apply to the following exempted fire fighting activities:

(A) Aircraft fire fighting and rescue;

(B) Forest and uncultivated, wildland fire fighting;

(C) Private industry fire brigades.

(D) Marine Fire Fighting and rescue.

EXCEPTION: When a public fire department elects to participate in one or more of the exempted fire fighting activities, that fire department shall comply with all of the provisions of OAR 437-002-0182.

(b) The provisions of OAR 437-002-0182 shall be supplemented by the provisions of other applicable safety and health rules of OR-OSHA.

(2) Definitions.

(a) Aerial device: An aerial ladder, elevating platform, aerial ladder platform, or water tower that is designed to position personnel, handle materials, provide egress and discharge water.

(b) Afterflame: The time a test specimen continues to flame after the flame source has been removed.

(c) ANSI: American National Standards Institute.

(d) Apparatus: A mobile piece of fire fighting equipment such as pumper, water tender, etc.

(e) Drill tower: A structure which may or may not be attached to the station and which is principally used for nonclassroom training of the fire fighters in fire service techniques, and which is over two stories in height.

(f) Emergency incident: Any situation to which the fire department responds to deliver emergency services, including rescue, fire suppression, medical treatment, and other forms of hazard control and mitigation.

(g) Emergency scene: The site where the suppression of a fire or the emergency exists.

(h) Fire chief: An employer representative responsible for managing the fire department's operation.

(i) Fire fighter:

(A) A person involved in performing fire department duties and responsibilities, which include fire suppression.

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(B) A fire fighter may be a career or volunteer member of a fire department and may occupy any position or rank within the fire department.

(j) Fire retardant: A material to reduce, stop or prevent flame spread.

(k) Fire training: Training received by fire fighters to maintain proficiency in the performance of their assigned duties.

(l) Flame-resistance: The property of materials, or combinations of component materials, to retard ignition and restrict the spread of flame.

(m) Hazardous material incident: The accidental release of hazardous materials from their containers.

(n) Helmet: A head protective device consisting of a rigid shell, energy absorption system, and chin strap intended to be worn to provide protection for the head or portions thereof, against impact, flying or falling objects, electric shock, penetration, heat and flame.

(o) Hose tower: A vertical structure where hose is hung to dry.

(p) IFSTA: International Fire Service Training Association.

(q) Lifeline: Length of rope to which employees are secured when in extremely hazardous areas.

(r) Live fire training: Any fire set within a structure, tank, pipe, pan, etc., under controlled conditions to facilitate the training of fire fighters under actual fire conditions.

(s) MSHA: Mine Safety and Health Administration.

(t) NFPA: National Fire Protection Association.

(u) Nondestructive testing: A test to determine the characteristics or properties of a material or substance that does not involve its destruction or deterioration.

(v) Private Industry Fire Brigades: A group of employees within an industry who are required to fight interior structural fires at their place of employment.

(w) Protective clothing: The clothing or equipment worn to protect the head, body and extremities from chemical, physical and health hazards.

(x) Quick disconnect valve: A device which starts the flow of air by insertion of the hose which leads from the facepiece into the regulator of self-contained breathing apparatus, and stops the flow of air by disconnection of the hose from the regulator.

(y) Rescue saw (Cutoff saw): A powered saw with a large circular cutting blade covered in part by a movable guard used to cut metal, wood, or concrete enclosures.

(z) Respirators:

(A) Atmosphere-supplying respirators: May be self-contained in which a cylinder of air or oxygen or an oxygen generating chemical provides the necessary oxygen for breathing, or a hose-type respirator in which the air is supplied from an external source.

(B) Air-purifying respirators: Contain chemical cartridges and/or filters to remove the contaminant prior to breathing.

(C) Positive Pressure demand respirators (Positive pressure respirators): Types of respirators which constantly and automatically maintain a positive pressure in the mask by the introduction of air when a spring-loaded valve senses that the positive pressure has been lowered because of inhalation or the leakage of air from the mask.

(aa) Responding: The act of answering an emergency call or other alarm.

(bb) Scabbard: A guard which will prevent accidental injury and which covers the blade and pick of an axe or other sharp instrument when worn by the fire fighter.

(cc) SCBA: A self-contained breathing apparatus designed to provide the wearer with a supply of respirable air carried in and/or generated by the breathing apparatus. This apparatus requires no intake of air or oxygen from the outside atmosphere, and can be designed to be a demand or pressure demand type respirator.

(dd) Station (Fire station): Structure in which fire service apparatus and/or personnel are housed.

(ee) Tailboard: Standing space at rear of an engine or pumper apparatus where fire fighters ride.

(ff) Training: The process of making proficient through instruction and hands-on practice in the operation of equipment, including respiratory protection equipment, that is expected to be used and in the performance of assigned duties.

(gg) Warning light: A flashing or rotating light.

(3) Organizational statement. The employer shall prepare and maintain a statement or written policy which includes basic organizational structure and functions of the organization, in addition to the type, amount, and frequency of training to be provided to fire fighters. This statement shall be made available for inspection by the Administrator and by employees or their designated representatives.

(4) Personnel.

(a) The employer shall review and evaluate the physical capability of each employee annually to determine their ability to perform duties which may be assigned. The review and evaluation shall be accomplished through

physical examination, stress testing or satisfactory performance demonstrated during the performance of their assigned duties.

(b) The employer shall not permit an employee with known medical condition which would significantly impair their ability to engage in fire suppression activities at the emergency scene unless a physician's certificate of the employees' fitness to participate in such activities is provided. This shall not limit the employer's ability to assign personnel to support activities (versus fire suppression activities).

(5) Employer's Responsibility.

(a) Each employer shall comply with the provisions of this division to protect the life, safety, and health of employees.

(b) It shall be the responsibility of the employer to establish and supervise:

(A) A safe and healthful working environment, as it applies to non-emergency conditions or to emergency conditions at the scene after the incident has been terminated, as determined by the officer in charge; and

(B) Programs for training employees in the fundamentals of accident prevention.

(C) A safe and healthful working environment, as it applies to live fire training exercises.

(c) The employer shall maintain all equipment in a safe condition.

(d) The employer shall see that employees who participate in exempted fire fighting activities listed in OAR 437-002-0182(1) are properly trained, protected, clothed and equipped for the known hazards of that particular emergency operation. The following note refers to the Respiratory Protection Standard, 1910.134(g)(3) and (4), Procedures for Interior Structural Fire Fighting ("two-in/two-out rule") adopted in Oregon July 7, 1998.

NOTE: If, upon arriving at the scene, members find an imminent life threatening situation where immediate action may prevent the loss of life or serious injury, the requirements for personnel in the outside standby mode may be suspended, when notification is given by radio to incoming companies that they must provide necessary support and backup upon their arrival.

(6) Employee's Responsibility.

(a) Each fire fighter shall comply with the provisions of OAR 437-002-0182 which are applicable to his/her own actions and conduct in the course of his/her employment.

(b) Fire fighters shall notify the appropriate employer and/or safety committee representative of unsafe practices and of unsafe conditions of equipment apparatus or workplaces.

(c) All fire fighters, at regularly scheduled times, shall attend required training and/or orientation programs designed to increase their competency in occupational safety and health.

(d) Fire fighters and other employees shall apply the principles of accident prevention in their work. They shall use all required safety devices and protective equipment.

(e) Each fire fighter shall take proper care of his/her protective equipment.

(f) Fire fighters who are expected to perform fire fighting operations shall notify their employer when health conditions arise or are discovered that will limit their capability of performing those duties.

(7) Safety Committee.

(a) Fire departments must have a separate safety committee or hold safety meetings in accordance with the requirements of OAR 437-001-0765 in division I, General Administrative Rules.

(b) When applicable, the representation on the safety committee must include both career and volunteer fire fighters.

(8) Incident Management. An incident management system that meets the requirements of NFPA standard 1561, on Fire Department Incident Management, shall be established with written standard operating procedures, applying to all members involved in emergency operations. All members involved in emergency operations shall be familiar with the system.

(9) Accountability.

(a) The fire department shall establish written standard operating procedures for a personnel accountability system in accordance with Section 2-6, 1995 of NFPA 1561, standard on Fire Department Incident Management System, by January 1, 1999, that provides for the tracking and inventory of all members operating at an emergency incident.

(b) It shall be the responsibility of all members operating at an emergency incident to actively participate in the personnel accountability system.

(10) Fire Fighting Training and Education.

(a) The employer or employer representative shall establish and implement a policy for the delivery of education and training designed to develop and maintain an appropriate level of knowledge, skill, and ability throughout the fire fighting classifications (ranks). Such education and training shall be provided to fire fighters before they perform assigned duties on a continuing basis.

(b) Before fire fighters participate in structural fire fighting activities, or in live fire training in a structure, they shall meet the training levels pre-

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scribed by the Department of Public Safety Standards and Training's (DPSST) 'Entry-level Firefighter' or have equivalent training.

(c) When live fire training occurs, it must be conducted under the direction of the fire department training officer, or employer authorized representative. All live fire training must be conducted following the requirements of Appendix C of this standard.

(d) During live fire training, fire fighters shall wear the protective equipment normally required for that type of fire fighting.

(e) When rope rescue training occurs, it shall be conducted under the direction of the fire department training officer or department-designated authority in accordance with the equipment manufacturers' recommendations. The training officer shall keep records of the manufacturers' training requirements, and shall comply with all such requirements.

(f) All fire hoses used by fire departments for training and fire combat shall meet the service testing requirements noted in Chapter 5 of NFPA 1962, 1993 edition.

(g) The employer shall provide training for the purpose, proper selection, fitting, use, and limitations of personal protective equipment.

(h) The employer shall assure that each employee is informed of the procedure of reporting unsafe work conditions or equipment.

(11) General Requirements for Protective Clothing.

(a) The employer shall provide to employees all required protective clothing, except that an employee at the employee's option may supply protective clothing. The employer shall provide the protective clothing at no cost to employees. The protective clothing must meet the requirements in OAR 437-002-0182(11) through (16), whether supplied by the employer or employee.

(b) The employer shall assure that new protective clothing intended for structural fire fighting which is ordered, used or purchased after the effective date of this division, meets the requirements contained in OAR 437-002-0182(11) through (16). The employer shall assure that fire fighters wear this clothing when performing structural fire fighting.

(c) In situations other than structural fire fighting, the employer shall ensure that protective clothing appropriate for the known hazards of that particular emergency operation is worn.

(d) Protective clothing currently in use which does not meet the requirements of OAR 437-002-0182(11) through (16) may continue to be used until October 1, 1998, if it was designed for fire fighting purposes and meets the manufacturer's original specifications and maintains the protective capabilities for which it was designed.

(e) The employer shall assure that appropriate protective clothing protects the head, body, and extremities and consists of at least the following components: foot and leg protection, hand protection, body protection, and eye, face and head protection.

(12) Body Protection.

(a) Body protection shall be as follows to ensure full body protection for the wearer.

(b) Coats and trousers used by structural fire fighters shall be at least equivalent to the National Fire Protection Association (NFPA) standard, No. 1971, 1991 edition, entitled "Protective Clothing for Structural Fire Fighting." (See also Appendix A.) [Appendices not included. See ED. NOTE.]

(13) Head Protection.

(a) Head protection shall consist of a protective head device, ear protection, flaps and chin strap which meet the requirements of NFPA Standard 1971-2000, Protective Ensemble for Structural Fire Fighting.

(b) Use, care, alterations and maintenance instructions for protective headgear shall be supplied for each helmet.

(c) Care, maintenance, and alteration of helmets shall conform to the manufacturer's recommendations.

(d) During structural fire fighting helmet accessories designed to provide or maintain protection from health and safety hazards shall be worn in the manufacturer's recommended position. (See also Appendix A.) [Appendices not included. See ED. NOTE.]

(e) A flame-resistant protective hood which will not adversely affect the seal of a respirator facepiece and meeting the requirements of NFPA Standard 1971, 1996 edition, after January 1, 1999 shall be worn during interior structural fire fighting operations to protect the sides of the face and hair.

(14)(a) Hand Protection.

(b) Hand protection for fire fighting activities shall consist of protective gloves or glove system which will provide protection against cut, puncture, and heat penetration. Gloves or glove system shall meet the requirements of NFPA Standard 1973, 1988 edition, titled "Gloves for Structural Fire Fighting."

(15) Foot and Leg Protection.

(a) Foot and leg protection shall meet the requirements of OAR 437-002-0182(15)(a)(A) and (B) and may be achieved by either of the following methods:

(A) Fully extended boots which provide protection for the legs; or

(B) Protective shoes or boots worn in combination with protective trousers that meet the requirements of OAR 437-002-0182(12).

(b) Protective footwear shall meet the requirements of NAPA Standard 1974, 1992 edition, titled "Protective Footwear for Structural Fire Fighting."

(c) Fire fighters' boots may be resoled but must meet the requirements of this rule.

(16) Eye and Face Protection. Eye and face protection worn by fire fighters at the fire ground shall comply with the following regulations:

(a) General requirements. Face protection shall be required where there is a reasonable probability of injury that can be prevented by such protection, when such face protection does not protect the eyes from foreign objects additional eye protection shall be provided.

(b) When self-contained respiratory equipment is being utilized by fire fighters, additional eye and face protection will not be required. Employers shall make conveniently available a type of protection suitable for the work to be performed, and employees shall use such protectors. Protectors shall meet the following minimum requirements.

(A) They shall provide adequate protection against the particular hazards for which they are designed.

(B) They shall be reasonably comfortable when worn under the designated conditions.

(C) They shall be durable.

(D) They shall be capable of being disinfected.

(E) They shall be easily cleanable.

(F) Protectors that can be worn over corrective lenses shall be available for those who need them, and should be kept clean and in good repair.

(c) Face shields.

(A) Face shields shall accommodate any of the following styles;

(i) Clear transparent.

(ii) Colored transparent.

(B) Disinfection. When a person is assigned protective equipment, it is recommended that this equipment be cleaned and disinfected regularly.

(C) Face shields must be an integral part of the fire helmet and may be installed in a fixed position or hinged allowing adjustment of the shields.

(D) In the event breathing apparatus is being used which incorporates a face mask, the face mask will be considered an acceptable face shield.

(d) Goggles, flexible, or cushioned fitting. Goggles shall consist of a wholly flexible frame, forming a lens holder or a rigid frame with integral lens or lenses, having a separate, cushioned fitting surface on the full periphery of the facial contact area.

(A) Materials used shall be chemical-resistant, nontoxic, nonirritating and slow-burning.

(B) There shall be a positive means of support on the face, such as an adjustable headband of suitable material or other appropriate means of support to retain the frame comfortably and snugly in front of the eyes.

(e) Design, construction, testing, and use of devices for eye and face protection shall be in accordance with ANSI Z87.1, Occupational Eye and Face Protection (1979).

NOTE: Fire fighters shall be protected from the effects of noise exposures which exceed the noise levels deemed to be safe as provided in OAR 437, Division 2/G, 1910.95, Occupational Noise Exposure.

(17) Requirements for Respiratory Protection. See OAR 437, division 2/I, 1910.134, Respiratory Protection.

(18) Criteria for Approved Self-Contained Breathing Apparatus.

(a) Approved self-contained compressed air breathing apparatus may be used with approved cylinders from other approved self-contained compressed air breathing apparatus provided that such cylinders are of the same capacity and pressure rating. All compressed air cylinders used with self-contained breathing apparatus shall meet DOT and NIOSH criteria.

(b) Self-contained breathing apparatus shall be provided with an indicator which automatically sounds an audible alarm when the remaining air supply of the apparatus is reduced to within a range of 20 to 25 percent of its rated service time.

(19) (Reserved)

(20) Personal Alert Safety System (PASS). Each member involved in rescue, fire suppression, or other hazardous duties after January 1, 2000, shall be provided with and shall use a PASS device in the hazardous area when self-contained breathing apparatus is in use. PASS devices shall meet the requirements of NFPA 1982, Standard on Personal Alert Safety Systems for Fire Fighters. Each PASS device shall be tested at least monthly and shall be maintained in accordance with the manufacturer's instructions.

(21) (Reserved)

(22) (Reserved)

(23) (Reserved)

(24) Breathing Air Compressors and Cylinders. In addition to the requirements contained in 1910.134(i), air samples shall be taken every 6 months from the compressor and analyzed by the employer or an independent laboratory for Grade D breathing air. Air samples shall also be tested when the system is installed or repaired. Analysis shall be conducted

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according to ANSI/CGA Standard G7.1-1989 edition, Commodity Specification for Air.

(25) Identification of Hazardous Material Locations.

(a) A means shall be provided for identifying nonresidential premises where hazardous materials are stored, as defined in the Uniform Fire Code, 1991 edition, as amended by the State of Oregon, effective July 15, 1992, under Articles 4 and 80, and in quantities as set forth in the hazardous material permit required by Article 4 of the Uniform Fire Code.

(b) Hazardous chemicals required to be identified by this section are those defined in Article 9, Section 9.110, and Article 80, Section 80.101 of the Uniform Fire Code.

(26) Hazardous Material Response Plan.

(a) Fire department that expects to or plans to respond to hazardous material incidents shall develop a written response plan.

(b) The written response plan must contain the policies and procedures on:

- (A) Pre-emergency planning and coordination with outside parties,
- (B) Personnel roles, lines of authority, training, and communication,
- (C) Emergency recognition and prevention,
- (D) Safe distances,
- (E) Scene security and control,
- (F) Evacuation procedures,
- (G) Decontamination,
- (H) Emergency medical treatment and first aid,
- (I) Personnel withdrawal procedures,
- (J) Critique of response and follow-up,
- (K) Personal protective equipment and emergency equipment and response procedures.

(c) The incident commander shall be responsible for:

- (A) Identification of the hazardous substance and condition,
- (B) Implementing emergency operations,
- (C) Ensuring personal protective equipment is worn,
- (D) Limit access to hot zone to those with a specific mission assignment,

(E) Implementing decontamination procedures,

(F) Designating a safety officer,

(G) Using appropriately trained personnel,

(H) On scene medical surveillance for emergency responders.

(27) Fire Apparatus Area.

(a) Walkways around apparatus shall be kept free of obstructions.

(b) The station's apparatus floors shall be so far as practical kept free of grease, oil, and tripping hazards.

(c) No Class I or II flammable liquids shall be used for cleaning purposes to remove grease or dirt from apparatus.

(d) Exhaust gases from diesel or gasoline apparatus within buildings shall be maintained within the limits of OAR 437, division 2/Z, 437-002-0382, Oregon Air Contaminant Rules.

(28) Design and Construction of Fire Apparatus.

(a) All fire apparatus with the exception of specialized apparatus shall conform to OAR 437, division 2/N, Oregon Rules for Commercial and Industrial Vehicles, 437-002-0223.

(b) Employers who have purchased used fire apparatus or used military equipment prior to the effective date of this division shall not be required to bring them under a more stringent code than the one in force at the time the apparatus was manufactured. The exception to this rule would be seat belts and communication systems between the tailboard and driver compartment as required by OAR 437-002-0182(29) (Automotive Fire Apparatus Equipment) and roll bars on all open top off-road vehicles as required by 437-002-0182(28)(f).

(c) Fire fighters' vehicle tailboards shall not project outboard of the vehicle sides or fenders and shall be designed to provide safe footing.

(d) Exhaust systems shall be installed and maintained in proper condition and shall be so designed as to minimize the exposure of the fire fighter to the exhaust gases.

(e) The loaded gross weight and empty height of the vehicle shall be posted in the vehicle such that it can be clearly read by the driver.

(f) Roll bars shall be in place on all open top off-road vehicles for rollover protection.

(29) Automotive Fire Apparatus Equipment.

(a) All equipment on a vehicle shall be adequately secured when the vehicle is in motion.

(b) Workers being transported by fire department vehicles shall ride only in designated secure positions. Safety restraints shall be provided for fire fighters riding the tailboard. (See also OAR 437, division 2/N, Oregon Rules for Commercial and Industrial Vehicles, 437-002-0223.)

(c) Vehicles with obstructed view to the rear of the vehicle when backing, shall be equipped with:

(A) An automatic back-up alarm which shall be sounded immediately on backing; or

(B) A fire fighter, who is visible in the driver's left-side mirror, shall stand to the rear of the truck to guide the driver while backing.

(d) Fire fighting vehicles shall be brought to a full stop before workers disembark.

(e) If workers are required to ride the tailboard, an electrical signal system or voice communication system shall be installed between the tailboard and the driver's compartment. A code of signals shall be used for controlling the movement of the vehicle.

(f) When traffic flow is inhibited or encroachment of the traffic lane occurs, vehicles equipped with emergency warning lights shall be used to control traffic at emergency scenes. The use of traffic cones, fire department personnel, police, or other traffic control measures shall be used as soon as practical.

(30) Automotive Apparatus Maintenance and Repair. Each employer shall establish written records and procedures whereby apparatus has:

(a) A scheduled monthly maintenance check; or

(b) A maintenance check each time the apparatus is returned to the station following an emergency response, a drill, or any type of test drive.

(31) Tires. Tires which are excessively worn, cracked, deteriorated or damaged in any way shall not be used. All tires shall have a minimum tread depth of 2/32-inch.

(32) Aerial Devices.

(a) Aerial devices used for fire fighting shall be inspected and tested by a person competent in performing such tests and inspections in accordance with the recommendations of NFPA Standard 1914, 1991 edition, at least annually.

(b) Where defects are found in critical components of an aerial device, the repairs shall be tested and certified in accordance with NFPA Standard 1914, 1991 edition, by a registered professional engineer or manufacturer of the apparatus or an American Welding Society (AWS) Certified Welding Inspector. A permanent record of such tests and repairs shall be maintained for each unit.

(33) Hose Drying Towers.

(a) Floor openings on hose tower platforms shall be equipped with a guardrail meeting the requirements of OAR 437, Division 2/D, 1910.23, Guarding Floor and Wall Openings and Holes.

(b) The toeboard requirements for elevated work platforms in hose drying towers shall not apply unless hand tools or objects other than hoses are carried onto the platforms.

(c) The requirements for ladders shall meet the requirements of OAR 437, Division 2/D, 437-002-0027, Fixed Ladders.

(d) Ropes used to hoist hose in the hose towers shall have a breaking strength to safe load strength (rated working load) ratio of 3 to 1.

(34) Drill Towers. Permanent fixed ladders on the outside of drill towers and drill buildings are exempt from the requirements of offset platform landings and ladder cage guards.

(35) Testing, Maintenance and Inspection of Fire Service Equipment.

The employer shall maintain and inspect fire service equipment at least annually and perform any tests recommended by the manufacturers at the date of manufacture, or the recommendations of NFPA or IFSTA.

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

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 10-1993, f. 7-29-93, cert. ef. 9-15-93; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 2-2000, f. & cert. ef. 1-28-00; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 3-2005, f. & cert. ef. 6-10-05; OSHA 9-2008, f. 9-19-08, cert. ef. 1-1-09

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

Rule Caption: Rules on how insurers report proof of workers' compensation insurance coverage to the department.

Adm. Order No.: WCD 4-2008

Filed with Sec. of State: 9-17-2008

Certified to be Effective: 7-1-09

Notice Publication Date: 8-1-2008

Rules Adopted: 436-160-0355, 436-160-0370

Rules Amended: 436-050-0003, 436-050-0005, 436-050-0015, 436-050-0060, 436-050-0110, 436-050-0120, 436-050-0200, 436-050-0400, 436-050-0480, 436-160-0004, 436-160-0005, 436-160-0020, 436-160-0030, 436-160-0040, 436-160-0060, 436-160-0080, 436-160-0300, 436-160-0310, 436-160-0320, 436-160-0330, 436-160-0340, 436-160-0350, 436-160-0360, 436-160-0410

Rules Repealed: 436-050-0070, 436-050-0080, 436-050-0090, 436-050-0100

Subject: Effective July 1, 2009, the director amends OAR chapter 436, division 050, "Employer/Insurer Coverage Responsibility," and

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OAR chapter 436, division 160, "Electronic Data Interchange." These rules establish a new process for maintaining and reporting proof of workers' compensation insurance coverage. Effective 7/1/2009, Senate Bill 559 eliminates references in ORS chapter 656 to the "guaranty contract" as an instrument for the insurer to maintain proof of coverage with the director. The revised statute refers instead to the "workers' compensation insurance policy." The rules describe: a new policy-based proof-of-coverage and electronic reporting system, as well as the process for transition to that system; insurers' proof-of-coverage record-keeping requirements; and potential civil penalties for failure to provide timely reports to the director regarding coverage.

Direct questions to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7581; or e-mail fred.h.bruyns@state.or.us

Rules are available on the Internet: <http://www.wcd.oregon.gov/policy/rules/rules.html>

For a copy of the rules, contact Publications at 503-947-7627, Fax 503-947-7630.

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-050-0003

Applicability of Rules

(1) These rules are effective July 1, 2009, to carry out the provisions of:

(a) ORS 656.017 — Employer required to pay compensation and perform other duties.

(b) ORS 656.029 — Independent contractor status.

(c) ORS 656.126 — Coverage while temporarily in or out of state.

(d) ORS 656.407 — Qualifications of insured employers.

(e) ORS 656.419 — Workers' compensation insurance policies.

(f) ORS 656.423 — Cancellation of coverage by employer.

(g) ORS 656.427 — Cancellation of workers' compensation insurance policy or surety bond liability by insurer.

(h) ORS 656.430 — Certification of self-insured employer.

(i) ORS 656.434 — Certification effective until canceled or revoked; revocation of certificate.

(j) ORS 656.443 — Procedure upon default by employer.

(k) ORS 656.447 — Sanctions against insurer for failure to comply with orders, rules, or obligations under workers' compensation insurance policies.

(l) ORS 656.455 — Records location and inspection.

(m) ORS 656.745 — Civil penalties.

(n) ORS 656.850 and 656.855 — Worker leasing companies.

(o) ORS 731.475 — Insurer's in-state location.

(2) Applicable to this chapter, the director may, unless otherwise obligated by statute, in the director's discretion waive any procedural rules as justice so requires.

Stat. Auth.: ORS 656.704, 656.726(4)

Stats. Implemented: ORS 656.017, 656.029, 656.126, 656.407, 656.419, 656.423, 656.427, 656.430, 656.434, 656.443, 656.447, 656.455, 656.745, 656.850, 656.855, 731.475

Hist.: WCD 3-1980(Admin), f. & ef. 4-2-80; WCD 4-1982(Admin), f. 2-10-82, ef. 2-15-82; WCD 10-1982(Admin), f. 9-30-82, ef. 10-1-82; WCD 7-1983(Admin), f. 12-22-83, ef. 12-27-83; Renumbered from 436-051-0003, 1-1-86; WCD 9-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 9-1987, f. 12-18-87, ef. 1-1-88; WCD 7-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 25-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 3-1992, f. 1-10-92, cert. ef. 2-1-92; WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 9-1996, f. 3-11-96, cert. ef. 4-1-96; WCD 1-1998, f. 1-9-98, cert. ef. 1-23-98; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 10-2003, f. 8-29-03, cert. ef. 9-15-03; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 5-2005, f. 5-26-05, cert. ef. 6-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-050-0005

Definitions

For the purpose of these rules unless the context requires otherwise:

(1) "Audited Financial Statement" means a financial statement audited by an outside accounting firm.

(2) "Board" means the Workers' Compensation Board of the Department of Consumer and Business Services.

(3) "Cancel" or "cancellation" of coverage means ending a policy at a date before its expiration date.

(4) "Client" means a person to whom workers are provided under contract and for a fee on a temporary or leased basis.

(5) "Complete Records" means written records required to be kept in Oregon as described in OAR 436-050-0110 and 0120 and 436-050-0210 and 0220.

(6) "Controlling Person" means a person having substantial ownership or who is an officer or director of a corporation; a member or manager of a limited liability company; a partner of a partnership; or an individ-

ual who possesses, directly or indirectly, the power to direct or cause the direction of the management, policies, or operation of a person offering worker leasing services.

(7) "Days" means calendar days unless otherwise specified.

(8) "Default" means failure of an employer, insurer or self-insured employer to pay the moneys due the director under ORS 656.506, 656.612 and 656.614 at such intervals as the director shall direct.

(9) "Department" means the Department of Consumer and Business Services.

(10) "Director" means the director of the Department of Consumer and Business Services or the director's delegate for the matter, unless the context requires otherwise.

(11) "Division" means the Workers' Compensation Division of the Department of Consumer and Business Services.

(12) "Fiscal Year" means the twelve-month period beginning July 1 and ending June 30.

(13) "Governmental Subdivision" means cities, counties, special districts defined in ORS 198.010, intergovernmental agencies created under ORS 225.050, school districts as defined in ORS 255.005, public housing authorities created under ORS chapter 456 or regional council of governments created under ORS chapter 190.

(14) "Hearings Division" means the Hearings Division of the Workers' Compensation Board.

(15) "Insurer" means the State Accident Insurance Fund Corporation or an insurer authorized under chapter 731 to transact workers' compensation insurance in Oregon.

(16) "Leased Worker" means any worker provided by a worker leasing company on other than a "temporary basis" as described in OAR 436-050-0420.

(17) "Nonrenewal" means the insurer's decision not to renew a policy at its expiration date.

(18) "Person" means an individual, partnership, corporation, joint venture, limited liability company, association, government agency, sole proprietorship, or other business entity allowed to do business in the State of Oregon.

(19) "Premium" means the monetary consideration for an insurance policy.

(20) "Premium Assessments" means moneys due the director under ORS 656.612 and 656.614.

(21) "Process Claims" is the determination of compensability and management of compensation by an Oregon certified claims examiner. Although determining compensability and managing compensation must be done from within this state under ORS 731.475 and this definition, the act of making payment may be done from out-of-state as directed from the Oregon place of business.

(22) "Proof of coverage" for purposes of OAR 436-050 has the same meaning as defined in OAR 436-160-0005.

(23) "Renewal" or "renew" means the issuance of a policy succeeding a policy previously issued and delivered by the same insurer or the issuance of a certificate or notice extending the terms of an existing policy for a specified period beyond its expiration date.

(24) "Reinstatement" means the continuation or reestablishing of workers' compensation insurance coverage, as noted by the effective date of the reinstatement, under a workers' compensation insurance policy that was previously canceled.

(25) "Self-Insured Employer" means an employer who has been certified under ORS 656.430 as having met the qualifications of a self-insured employer set out by ORS 656.407.

(26) "Self-Insured Employer Group" means five (5) or more employers certified under ORS 656.430 as having met the qualifications of a self-insured employer set out by ORS 656.407 and OAR 436-050-0260 through 436-050-0340.

(27) "State" means the State of Oregon.

(28) "Substantial ownership" means a percentage of ownership equal to or greater than the average percentage of ownership of all the owners, or ten percent, whichever is less.

(29) "Worker Leasing Company" means a "person," as described in section (18) of this rule, who provides workers, by contract and for a fee, as established in ORS 656.850.

(30) "Written" means that which is expressed in writing, including electronic transmission.

Stat. Auth.: ORS 656.704 & 656.726(4)

Stats. Implemented: ORS 656.704 & 656.726(4)

Hist.: WCB 2-1976(Admin)(Temp), f. & ef. 4-12-76; WCB 3-1976(Admin), f. & ef. 6-15-76; WCD 3-1980(Admin), f. & ef. 4-2-80; WCD 4-1982(Admin), f. 2-10-82, ef. 2-15-82; WCD 10-1982(Admin), f. 9-30-82, ef. 10-1-82; WCD 1-1983(Admin), f. 6-30-83, ef. 7-1-83; WCD 7-1983(Admin), f. 12-22-83, ef. 12-27-83; WCD 5-1985(Admin), f. 12-10-85, cert. ef. 1-1-86; Renumbered from 436-051-0005; WCD 9-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 9-1987, f. 12-18-87, ef. 1-1-88; WCD 7-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 25-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 9-1996, f. 3-11-96, cert. ef. 4-1-96; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 3-2007(Temp), f. 5-31-07, cert. ef. 6-1-07 thru 11-27-07; WCD 7-

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2007, f. 11-1-07, cert. ef. 11-28-07; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-050-0015

Suspension and Revocation of Authorization to Issue Workers' Compensation Insurance Policies

(1) Under ORS 656.447, the director may suspend or revoke the insurer's authority to renew or issue workers' compensation insurance policies upon a determination that the insurer has failed to comply with its obligations under the policy or that it has failed to comply with the law, rules, or orders of the director.

(2) For the purpose of this rule:

(a) "Suspend" or "suspension" means a stopping by the director of the insurer's authority to issue new workers' compensation insurance policies for a specified period of time.

(b) "Revoke" or "revocation" means a permanent revocation by the director of an insurer's authority to renew or issue workers' compensation insurance policies.

(c) "Show-cause hearing" means an informal meeting with the director or designee in which the insurer shall be provided an opportunity to be heard and present evidence regarding any proposed orders by the director to suspend or revoke an insurer's authority to issue workers' compensation insurance policies.

(3) Suspension or revocation under this rule will not be made until the insurer has been given notice and the opportunity to be heard through a show-cause hearing before the director and show cause why it should be permitted to continue to issue workers' compensation insurance policies.

(4) A show-cause hearing may be held at any time the director finds that an insurer has failed to comply with its obligations under a workers' compensation insurance policy or has failed to comply with law, rules, or orders of the director.

(5) Following a show-cause hearing, the director may rescind the proposed order if the insurer establishes to the director's satisfaction its ability and commitment to comply with ORS Chapter 656 and these rules.

(6) A suspension may be in effect for a period of up to 18 months. A suspended insurer may continue to serve existing accounts and renew any existing policy, unless the policy nonrenews or is canceled during the period of suspension.

(7) After 12 months of the suspension has elapsed, the division may audit the performance of the insurer. If the insurer is in compliance, the administrator may request the director to lift the suspension before the 18 months has elapsed. If the insurer is not in compliance, the Workers' Compensation Division's administrator may request the director revoke the insurer's authority to issue workers' compensation insurance policies.

(8) When an insurer's authority to issue workers' compensation insurance policies has been revoked, the insurer may serve an existing account only until the policy is canceled or until the next renewal date, whichever first occurs.

(9) After a revocation of an insurer's authority to issue workers' compensation insurance policies has been in effect for five years or longer, it may petition the director to restore its authority by submitting a plan in the form prescribed by the director, demonstrating its ability and commitment to comply with the workers' compensation law, these rules and orders of the director.

(10) Appeal of proposed and final orders of suspension and revocation issued under this rule may be made as provided in OAR 436-050-0008.

(11) Any order of suspension or revocation issued by a referee or other person under ORS 656.447 and this rule is a preliminary order subject to revision by the director.

Stat. Auth.: ORS 656.704, 656.726(4)

Stats. Implemented: ORS 656.447

Hist. WCD 25-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-050-0060

Transition from Guaranty Contract Filings to Policy-Based Proof of Coverages

(1) Proof of coverage reporting requirements are prescribed by OAR 436-160.

(2) An active guaranty contract on file with the director on or after July 1, 2009 meets the Oregon proof of coverage requirement until it is replaced by a proof of coverage filing for renewal or new coverage effective on or after July 1, 2009, or until canceled under ORS 656.423 or 656.427. Active guaranty contracts on file with the director will not serve as proof of coverage on or after July 1, 2010.

(3) Filings for policies with a coverage effective date before July 1, 2009 create, endorse, cancel, or reinstate a guaranty contract. Filings for policies with a coverage effective date on or after July 1, 2009 establish, endorse, cancel, or reinstate proof of coverage filings.

(4) A guaranty contract in effect on or after July 1, 2009 is canceled the earliest of:

(a) The employer obtaining other Oregon workers' compensation coverage and causing the insurer to make a coverage filing with the director;

(b) The employer providing the insurer 30 days written notice of cancellation; or

(c) The insurer mailing notice of cancellation to the employer at least 45 days prior to the cancellation effective date, 90 days notice if the cancellation is based on an insurer's decision not to offer insurance to employers with a specific premium category, or 10 days notice if the cancellation is based on nonpayment of premium.

Stat. Auth.: ORS 656.704 & 656.726(4)

Stats. Implemented: ORS 656.419 & 656.427

Hist.: WCB 18-1975(Admin), f. 12-19-75, ef. 1-1-76; WCD 3-1980(Admin), f. & ef. 4-2-80; WCD 4-1982(Admin), f. 2-10-82, ef. 2-15-82; WCD 1-1983(Admin), f. 6-30-83, ef. 7-1-83; WCD 7-1983(Admin), f. 12-22-83, ef. 12-27-83; WCD 5-1985(Admin), f. 12-10-85, cert. ef. 1-1-86; Renumbered from 436-051-0100; WCD 9-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 9-1987, f. 12-18-87, ef. 1-1-88; WCD 9-1996, f. 3-11-96, cert. ef. 4-1-96; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-050-0110

Notice of Insurer's Place of Business in State; Coverage Records Insurer Must Keep in Oregon

(1) Every insurer that is authorized to issue workers' compensation coverage to subject employers as required by ORS Chapter 656 shall give the director notice of the location, mailing address, telephone number, and any other contact information in this state where the insurer processes claims and keeps written records of claims and proof of coverage as required by ORS 731.475. The insurer must provide the director contact information for a designated person or position within the company who will assure payment of penalties and resolution of collections issues resulting from orders issued by the director. While the insurer may have more than one location in this state, the information provided to the director must reasonably lead an inquirer to a person who can respond to inquiries as to workers' compensation insurance policy information and to access an in-state Oregon certified claims examiner who can respond within a reasonable time to specific claims processing inquiries. A response time of forty-eight (48) hours or less, not including weekends or legal holidays, would satisfy a reasonable expectation.

(2) Notice under section (1) of this rule shall be filed with the director within 30 days after the insurer becomes authorized and starts writing workers' compensation insurance policies for Oregon subject employers.

(3) If an insurer elects to use a service company to satisfy the purposes of ORS 731.475 with respect to all or any portion of its business, the insurer shall, prior to its effective date, file with the division a copy of the agreement between the insurer and each company, and shall give the division notice of the location and mailing address of each service company.

(4) For the purpose of this section, those activities conducted at designated in-state location(s) and by the authorized representative(s) of the insurer shall include, but need not be limited to:

(a) Processing and keeping complete records of claims for compensation;

(b) Responding to specific claims processing inquiries;

(c) Keeping records of payments for compensation;

(d) Keeping records in a written form, not necessarily original form, and making those records available upon request; and

(e) Accommodating periodic in-state audits by the director.

(5) If its place of business or that of a service company elected in lieu of an in-state place of business is changed, the insurer shall notify the director of the new location, mailing address, telephone number, and any other contact information of the place of business at least 30 days prior to the effective date of the change.

(6) When an insurer changes claims processing locations, service companies, or self-administration, the insurer must provide at least 10 days prior notice to workers with open or active claims, their attorneys, and attending physicians. The notice must provide the name of a contact person, telephone number, and mailing address of the new claim processor. The insurer must also notify the director of which claims will be transferred. The notice to the director must include:

(a) Contact information for both the sending processor and receiving processor of the claims to include a contact person, telephone number, mailing address, and physical address where the claims are to be processed; and

(b) A listing of the claims being transferred which identifies the sending processor's claim number, claimant name, and date of injury. The list should also include the employer number and claim file number assigned by the Workers' Compensation Division, if known.

(7) Records every insurer is required to keep in this state include all the written records of the insurer that show its insured employers have complied with ORS 656.017, including the records described by OAR 436-050-0120.

Stat. Auth.: ORS 731.475, 656.704 & 656.726(4)

Stats. Implemented: ORS 731.475

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Hist.: WCB 18-1975(Admin), f. 12-19-75, ef. 1-1-76; WCD 3-1980(Admin), f. & ef. 4-2-80; WCD 4-1982(Admin), f. 2-10-82, ef. 2-15-82; WCD 7-1983(Admin), f. 12-22-83, ef. 12-27-83; WCD 6-1984(Admin), f. & ef. 9-14-84; WCD 5-1985(Admin), f. 12-10-85, cert. ef. 1-1-86; Renumbered from 436-051-0205; WCD 9-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 9-1987, f. 12-18-87, ef. 1-1-88; WCD 7-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-050-0120

Records Insurers Must Keep in Oregon; Removal and Disposition

(1) The records of claims for compensation that each insurer is required to keep in this state include:

- (a) Written records used and relied upon in processing claims;
- (b) A written record of all payments made as a result of any claim including documentation of the date the payment was mailed. Documentation may be the actual mailing date, or an explanation of the time period between the date of issuance and mailing; and
- (c) A written record as to whether supplemental temporary disability benefits, as required under ORS 656.210(5) for workers employed in more than one job, were approved or denied.

(2) Records of a denied claim may be removed from this state after all the appellate procedures have been exhausted and the denial has been affirmed by operation of law.

(3) Records of any claim for a compensable injury may be removed from this state after the expiration of the aggravation rights or not less than one year following the final payment of compensation, whichever is the last to occur.

(4) When a denied claim is found to be compensable, the records of such claim are thereafter subject to section (3) of this rule.

(5) Claims records may be destroyed when all potential for benefits to the injured worker is gone.

(6) The records relating to proof of coverage that insurers are required to keep in the state include:

(a) A written record of each workers' compensation insurance policy and related endorsements, reinstatements, or cancellations issued as required under the Workers' Compensation Law;

(b) Written records of premiums due and premiums collected by the insurer from its insured employers as a result of coverage issued under the Workers' Compensation Law; and

(c) Written records that segregate and show specifically for each employer the amounts due from the employer and all such money collected and paid by the insurer for premiums for insurance coverage, premium assessments, and any other moneys due the director or required to be remitted to the director.

(7) If all remittances have been made, proof-of-coverage records may be disposed of after the next Insurance Division examination under ORS 731.300 or the end of three full calendar years following the calendar year in which the workers' compensation insurance policy cancels or is not renewed, whichever occurs later.

Stat. Auth.: ORS 731.475, 656.704 & 656.726(4)

Stats. Implemented: ORS 731.475

Hist.: WCB 18-1975(Admin), f. 12-19-75, ef. 1-1-76; WCD 3-1980(Admin), f. & ef. 4-2-80; WCD 4-1982(Admin), f. 2-10-82, ef. 2-15-82; WCD 7-1983(Admin), f. 12-22-83, ef. 12-27-83; WCD 5-1985(Admin), f. 12-10-85, cert. ef. 1-1-86; Renumbered from 436-051-0215; WCD 9-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 9-1987, f. 12-18-87, ef. 1-1-88; WCD 7-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 12-2001, f. 12-7-01, cert. ef. 1-1-02; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-050-0200

Self-Insured Certification Cancellation; Revocation

(1) A certification to a self-insurer issued by the director remains in effect until:

(a) Revoked as provided by OAR 436-050-0150 through 436-050-0230 and ORS 656.440; or

(b) Canceled by the employer with the approval of the director.

(2) If a self-insured employer wishes to cancel certification as a self-insured or cancel self-insurance for any legal entity included under the self-insurance certification, the employer shall make written request to the director. Such a request shall be submitted at least 60 days prior to the desired date of cancellation and include:

(a) What arrangements have been made to process present and future claims for which the employer is responsible;

(b) A statement of all present and future claims liabilities for all liabilities incurred during the period of self-insurance; and

(c) Any reports and/or moneys due the director pursuant to ORS 656.506, 656.612 and 656.614.

(3) If the employer will continue to have subject workers after the cancellation date, the employer must provide the director, prior to the desired date of cancellation, one of the following:

(a) An insurer filed proof of coverage for a workers' compensation insurance policy under ORS 656.017 and 656.419;

(b) Evidence of a worker leasing arrangement as allowed under ORS 656.850; or

(c) An assigned risk binder that demonstrates compliance with ORS 656.052.

(4) If the self-insured employer fails to provide the director evidence of subsequent coverage under section (3) prior to the desired date of cancellation, the self-insurance certification, including reports and moneys due the director under ORS 656.506, 656.612, and 656.614, will remain in effect.

(5) If a workers' compensation insurance policy is in effect and an active self insurance certification is on file with the director for the same employer for the same time period, the self insured employer shall have the responsibility of processing claims occurring during the time period as provided under the self insurance certification.

(6) The certification of a self-insured employer may be revoked if:

(a) The employer fails to comply with ORS 656.407 or 656.430 and the rules adopted pursuant thereto; or

(b) The employer commits any violation for which a civil penalty could be assessed under ORS 656.745.

(7) Except as provided in OAR 436-050-0170(7), notice of certificate revocation will be issued in accordance with the provision of ORS 656.440.

Stat. Auth.: ORS 656.704 & 656.726(4)

Stats. Implemented: ORS 656.434 & 656.440

Hist.: WCD 3-1980(Admin), f. & ef. 4-2-80; WCD 4-1982(Admin), f. 2-10-82, ef. 2-15-82; WCD 7-1983(Admin), f. 12-22-83, ef. 12-27-83; WCD 5-1985(Admin), f. 12-10-85, cert. ef. 1-1-86; Renumbered from 436-051-0325; WCD 9-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 9-1987, f. 12-18-87, ef. 1-1-88; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-050-0400

Responsibility for Providing Coverage Under a Lease Arrangement

(1) Every worker leasing company providing workers to a client shall satisfy the requirements of ORS 656.017, 656.407, or 656.419.

(2) Every worker leasing company providing leased workers to a client shall also provide workers' compensation insurance coverage for any subject workers of the client, unless the client has an active workers' compensation insurance policy proof of coverage on file with the director or is certified under ORS 656.430 as a self-insured employer. In the latter circumstance, the client's insurer or the self-insured employer will be deemed to provide insurance coverage for all leased workers and subject workers of the client.

(3) If an insured client allows its workers' compensation insurance policy to cancel or does not obtain a renewal of the policy, or if a self-insured client allows its certification to terminate, and the client continues to employ subject workers or has leased workers, the client shall be considered a noncomplying employer unless the worker leasing company has made the filing with the director as provided in OAR 436-050-0410(1).

(4) A client can obtain leased workers from only one worker leasing company at a time unless the client has an active workers' compensation insurance policy proof of coverage on file with the director or is certified under ORS 656.430 as a self-insured employer.

(5) A worker leasing company shall not provide workers' compensation coverage for another worker leasing company.

Stat. Auth.: ORS 656.704, 656.726(4), 656.850 & 656.855

Stats. Implemented: ORS 656.850 & 656.855

Hist.: WCD 2-1994, f. 4-1-94, cert. ef. 5-1-94; WCD 15-1994, f. 12-23-94, cert. ef. 2-1-95; WCD 5-2001, f. 6-22-01, cert. ef. 7-1-01; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 3-2007(Temp), f. 5-31-07, cert. ef. 6-1-07 thru 11-27-07; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-050-0480

Assessment of Civil Penalties

(1) Failure to provide timely notice to the director for proof of coverage and cancellation of workers' compensation insurance policies under ORS 656.419 or OAR 436-160 may result in civil penalties under ORS 656.745.

(2) The director may assess a civil penalty against an employer who fails to respond to requests for information and fails to meet the requirements of 436-050-0470. The matrix attached to these rules in **Appendix "A"** will be used in assessing these penalties. Assessment of a penalty does not relieve the employer of the obligation to provide a response.

(3) An employer failing to meet the requirements set forth in OAR 436-050-0410, 436-050-0450, and 436-050-0455, may be assessed a civil penalty based on the matrix in **Appendix "B"**, attached to these rules.

(4) An employer who is found to be operating a worker leasing company without having obtained a license or having failed to renew a license pursuant to ORS 656.850(2), may be assessed a civil penalty based on the matrix attached to these rules in **Appendix "C"**.

(5) For the purposes of ORS 656.850(2), a violation is defined as any month or part of a month in which an employer provides leased workers to a client without having first obtained a worker leasing license.

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(6) Any person or controlling person may also be subject to penalties under ORS 656.990.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 656.704, 656.726(4), 656.850 & 656.855
Stats. Implemented: ORS 656.850 & 656.855
Hist.: WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 5-2005, f. 5-26-05, cert. ef. 6-1-05; WCD 3-2007(Temp), f. 5-31-07, cert. ef. 6-1-07 thru 11-27-07; WCD 7-2007, f. 11-1-07, cert. ef. 11-28-07; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-160-0004

Adoption of Standards

(1) For proof of coverage, the director adopts, by reference, *IAIABC EDI Implementation Guide for Proof of Coverage*, Release 2.1, dated June 1, 2007, including the definition of standards and procedures, unless otherwise provided in these rules.

(2) For medical bill data, the director adopts, by reference, *IAIABC EDI Implementation Guide for Medical Bill Payment Records*, Release 1, dated July 4, 2002, unless otherwise provided in these rules.

(3) Copies of the standards described in sections (1) and (2) are available from the IAIABC Web site: <http://www.iaiabc.org/i4a/pages/index.cfm?pageid=3339>.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 656.264
Stats. Implemented: ORS 656.017, 656.407, 656.419, 656.423 & 656.427
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-160-0005

General Definitions

For the purpose of these rules, unless it conflicts with statute or rule:

(1) "ANSI" means the American National Standards Institute.

(2) "Conditional data element" means an element that becomes mandatory under certain conditions. Once mandatory, a conditional data element will cause a rejection of the transaction if the data element is omitted or submitted in a format not capable of being processed by the division's information processing system.

(3) "Director" means the Director of the Department of Consumer and Business Services or the director's designee for the matter.

(4) "Division" means the Workers' Compensation Division of the Department of Consumer and Business Services.

(5) "Electronic Data Interchange" or "EDI" means a computer to computer exchange of information in a standardized electronic format.

(6) "Electronic Record" means information created, generated, sent, communicated, received, or stored by electronic means.

(7) "Establishing document" means an EDI transaction that reports coverage for one or more entities. Establishing document types may include binders, new policies, rewrite/reissue transactions, renewals, reinstatements, add jurisdiction endorsements, or add employer/location endorsements.

(8) "FEIN" means the federal employer identification number or other federal reporting number used by the insurer, insured, or employer for federal tax reporting purposes.

(9) "Header record" means the record that precedes each transmission for the purpose of identifying a sender, the date and time of the transmission, and the transaction set within the transmission.

(10) "IAIABC" means the International Association of Industrial Accident Boards and Commissions, a professional trade association comprised of state workers' compensation regulators and insurance representatives (www.iaiabc.org).

(11) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(12) "Industry code" means the code which indicates the nature of the employer's business, which is contained in the Standard Industrial Classification (SIC) manual published by the Federal Office of Management and Budget, or in the North American Industrial Classification System (NAICS) published by the U.S. Census Bureau.

(13) "Insurer" means the State Accident Insurance Fund Corporation, an insurer authorized under chapter 731 to transact workers' compensation insurance in Oregon, or a self-insured employer.

(14) "Mandatory data element" means an element that will cause a rejection of a transaction if the data element is omitted or submitted in a format not capable of being processed by the division's information processing system.

(15) "Optional data element" means an element that an insurer should report to the director if the information is available to the insurer. Optional data elements will not cause a rejection if missing or invalid.

(16) "Proof of coverage" means an electronic record or set of records identifying an insurer as providing workers' compensation coverage for a specific employer.

(17) "Record" means electronic record.

(18) "Reprocessed transaction" means a rejected transaction that, at the discretion of the director, has been reprocessed and accepted by the division.

(19) "Sender" means the person or entity reporting electronic data interchange transactions to the division. Sender may include vendors or insurers.

(20) "Trading partner agreement" means the agreement entered into under OAR 436-160-0020 between the director and an insurer to conduct transactions via EDI.

(21) "Trailer record" means the record that designates the end of a transmission and provides a count of transactions contained within the transmission, not including the header and trailer records.

(22) "Transaction" means a set of EDI records, defined according to standards in OAR 436-160-0004.

(23) "Transmission" means a defined set of transactions, including both header and trailer records to be sent to the division or sender via EDI.

(24) "Vendor" means an agent identified by the insurer to submit transmissions to the division on behalf of an insurer. Vendors may include service companies, third party administrators, and managing general agents.

Stat. Auth.: ORS 656.264, 656.726(4)
Stats. Implemented: ORS 84.004 & 656.264
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-160-0020

Trading Partner Agreement

(1) If the director so requires, an insurer must enter into a trading partner agreement with the director before the division will begin testing with or accept production electronic transmissions from the insurer or from a vendor on behalf of that insurer.

(2) The trading partner agreement will include:

(a) A statement that the insurer will remain responsible and liable for all electronic records transmitted to the director;

(b) Transmission protocol between sender and director;

(c) A specific description of the form, format, and delivery of electronic transmissions under OAR 436-160-0004 and 436-160-0050;

(d) Specific identifying information for insurer, third party administrator, if any, and vendor, if any;

(e) Cost allocation of transactions, if any;

(f) The time frame for the director to submit acknowledgements of transmissions; and

(g) Any other necessary statements, conditions or requirements to facilitate EDI.

Stat. Auth.: ORS 656.264 & 656.726(4)
Stats. Implemented: ORS 84.013 & 656.264
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-160-0030

Retention of Electronic Records

Insurers and self-insured employers must retain workers' compensation records under OAR 436-050-0120, 436-050-0220, and 436-009-0030. Records may be retained in electronic format if the records can be reproduced.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.455 & 731.475
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-160-0040

Recognized Filing Date

(1) Unless otherwise stated in the trading partner agreement, an electronic record is sent when it:

(a) Is addressed or directed properly to an information processing system designated or used by the division to receive electronic records or information;

(b) Is in a form and format capable of being processed by that system; and

(c) Enters an information processing system outside the control of the sender or enters a region of the information processing system designated or used by the division and that is under control of the division.

(2) Unless otherwise stated in the trading partner agreement an electronic record is received when it:

(a) Enters an information processing system designated or used by the division to receive electronic records or information of the type sent and from which the division is able to retrieve the electronic record; and

(b) Is in a form and format capable of being processed by the division's information processing system.

(3) For the purpose of these rules, an electronic transaction is capable of being processed by the division's information processing system when all the required data elements are in the form and format specified in these

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rules, in the proper sequence, and in accordance with the terms of the trading partner agreement.

(4) A reprocessed transaction retains the filing date of the original transaction.

Stat. Auth.: ORS 656.264 & 656.726(4)

Stats. Implemented: ORS 84.013 & 656.264

Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-160-0060

Testing Procedures and Requirements

(1) Proof of coverage testing:

(a) The director adopts the Oregon EDI Implementation Guide for Proof of Coverage as the standard for EDI testing procedures and requirements.

(b) Senders conducting EDI transactions as of January 1, 2009, do not have to complete EDI testing. Insurers using an approved EDI vendor to submit proof of coverage data to the department do not have to complete testing as provided by this rule.

(c) Senders must obtain director approval to submit proof of coverage data via EDI transactions. Each sender must successfully complete the Secure File Transfer Protocol (SFTP) test and the format and structure test(s) detailed in the Oregon EDI Implementation Guide for Proof of Coverage to demonstrate ability to successfully transmit coverage data in the format specified in OAR 436-160-0004. The director will notify senders once they have successfully completed testing. Insurers must either use an approved sender or be approved as a sender to report proof of coverage via EDI starting July 1, 2009. If an insurer is not an approved sender, it must report through an approved sender until approved by the director for direct reporting of proof of coverage via EDI.

(2) Medical bill data testing and transition to production:

(a) To initiate a test for EDI, the sender must contact the director.

(b) Each transmission for test purposes must conform to the standards specified in OAR 436-160-0004, or as otherwise identified in the trading partner agreement. Test files will be evaluated in terms of whether the data was sent in the correct, standardized format.

(c) To gain approval to send production transmissions, the sender must be able to:

(A) Transmit records via electronic data interchange; and

(B) Accomplish secure file transfer protocol uploads and downloads.

(d) The sender must demonstrate the ability to send transmissions to the director that are readable, in the correct format, and can be processed through the division's information processing system. A successful EDI FTP test is determined by the resolution of any consistently recurring fatal technical errors identified by the division such that:

(A) Transmissions are sent to the director without structural errors;

(B) Transmissions are sent to the director without transaction level technical errors; and

(C) The sender can receive and process the automated EDI acknowledgement transactions.

(e) To move from test to production, 80 percent of the sender's transactions must have been accepted by the division by the end of the testing period, allowing for corrected and resubmitted transactions. The director will consider the sender's anticipated volume of production transactions to determine the number of transactions per test transmission required.

(f) Once approved, sender must maintain the accuracy as defined in subsections (d) and (e) of this section. Failure to meet technical requirements may result in additional testing requirements.

(g) The director will inform the sender and insurer (if different) if accuracy standards for technical requirements fall below standards prescribed in subsections (d) and (e) of this section during production.

(h) During the EDI test phase, insurer will not be required to file the same medical bill data via Bulletin 220. If the test phase is not completed satisfactorily, as detailed in (e) above, the insurer may be required to submit data for the period covered by the unacceptable test via Bulletin 220 standard, and then complete a new EDI test.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 84.013 & 656.264

Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-160-0080

Acknowledgements

(1) Proof of Coverage:

(a) The director will respond to the sender with an electronic transaction accepted or transaction rejected acknowledgement of the insurer's transactions.

(b) The insurer must correct and resubmit any transactions rejected for which law or rule require filing, reporting, or notice to the director.

(2) Insurers are not required to resubmit reprocessed transactions.

(3) Medical Bill Data:

(a) The sender will receive both functional and detailed electronic acknowledgements for each batch sent. The detailed acknowledgement will contain transaction accepted or transaction rejected acknowledgement of all of the insurer's transactions in the batch.

(b) The insurer must correct and resubmit any transactions rejected for which law or rule require filing, reporting, or notice to the director.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.264

Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-160-0300

Proof of Coverage Definitions

(1) Unless otherwise provided in these rules, the definitions and standards identified in OAR 436-160-0004 and OAR 436-160-0005 apply.

(2) For policies effective before July 1, 2009, the establishing document transaction types listed in OAR 436-160-0350(3)(c) can be used to file a guaranty contract under that rule. For policies effective on or after July 1, 2009, the establishing document transaction types listed in OAR 436-160-0355(2)(b) can be used to file proof of coverage. In Oregon, a reinstatement, an add location, and an add employer transaction type can also be an establishing document. A change policy number transaction type is not an establishing document.

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

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.419, 656.423 & 656.427

Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-160-0310

Proof of Coverage Electronic Filing Requirements

(1) The chart in Appendix "A" shows all proof of coverage data elements accepted via EDI in Oregon, and whether the data element is mandatory (M), conditional (C), or optional (O) for each transaction type.

(2) Unless otherwise provided in these rules, the data elements shall have the meaning provided in the data dictionary under OAR 436-160-0004.

(3) Transactions will be rejected if mandatory or required conditional data elements are omitted or submitted in a format that is not capable of being processed by the division's information processing system designated for proof of coverage transactions.

(4) Optional data element(s) in a transaction will be ignored if the optional data element is either omitted, or submitted in a format that is not capable of being processed by the division's information processing system designated for proof of coverage transactions.

(5) Unless otherwise provided in these rules, an insurer must transmit proof of coverage via EDI. Insurers may not submit paper documents to the director without the director's express permission or as provided in OAR 436-160-0350(7).

(6) Changes or corrections to proof of coverage transactions must be filed within 30 days of insurer knowledge of the change to a required data field.

(7) Professional employee organization (PEO) policies will be accepted via EDI, subject to the same data and transaction editing standards as other policies. A policy filing for a PEO does not eliminate the PEO's requirement to file worker leasing notices under OAR 436-050-0410.

(8) Wrap-up policies will be accepted via EDI, subject to the same data and transaction editing standards as other policies.

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656.264

Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-160-0320

Proof of Coverage Acknowledgement

(1) The division will respond to transmissions submitted with either a transaction accepted or a transaction rejected acknowledgement. The division may, at its discretion, reprocess transactions.

(2) A transaction rejected acknowledgement will be sent for all transactions incapable of being processed by the division's information processing system, including, but not limited to:

(a) An omitted mandatory data element;

(b) An improperly populated data element field, e.g. numeric data element field is populated with alpha or alphanumeric data, or is not a valid value;

(c) Transactions or electronic records within the transaction which require matching and cannot be matched to the division's database;

(d) Illogical data in mandatory or required conditional field, e.g. termination date is before coverage effective date;

(e) Duplicate transmission or duplicate transaction within the transmission;

(f) Invalid triplicate code; or

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(g) Illogical event sequence relationship between transactions, e.g. endorsement transaction submitted before a policy transaction is submitted.

(3) A transaction accepted acknowledgement will be sent for all transactions that are in a format capable of being processed by the division's information processing system and are not rejected pursuant to section (2) of this rule.

(4) An insurer's obligation to file proof of coverage for the purposes of this rule is not satisfied unless the director acknowledges acceptance of the transaction.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.264
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-160-0330

Proof of Coverage Effective Dates

(1) For policies with effective dates before July 1, 2009:

(a) For all binder or new policy establishing document transactions submitted under OAR 436-160-0350, the coverage effective date will also be the guaranty contract effective date.

(b) For all other establishing document transactions that meet the guaranty contract filing requirements of OAR 436-160-0350, the transaction set type effective date will also be the guaranty contract effective date.

(c) The policy expiration date submitted on a transaction does not terminate liability under a guaranty contract. Liability under a guaranty contract filed by an insurer continues until it is terminated under OAR 436-160-0360 and ORS 656.423 or 656.427.

(2) For policies with effective dates on or after July 1, 2009:

(a) For binder or new policy establishing document transactions, the policy effective date will also be the effective date of the proof of coverage for the reported entity(ies).

(b) For all other establishing document transactions, the transaction set type effective date will also be the effective date of the proof of coverage for the reported entity(ies).

(3) For reinstatement transactions the transaction set type date will determine whether the transaction reinstates the guaranty contract or reinstates proof of coverage shown by the reinstated policy. Transaction effective dates before July 1, 2009, will reinstate the guaranty contract, which will remain in effect until renewed, replaced by new coverage, or terminated by the insurer. Transaction effective dates on or after July 1, 2009, will reinstate the director's required proof of coverage through the reinstated policy, which will remain in effect until the policy expiration date or the date of cancellation, whichever is earlier.

(4) For all other transactions, the effective date will be the transaction set type effective date.

(5) For reissue, renewal, reinstatement, or endorsement transactions, the transaction effective date will be the transaction set type effective date submitted by the insurer.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.264, 656.419, 656.423 & 656.427
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-160-0340

Proof of Coverage Changes or Corrections

(1) Changes or corrections to proof of coverage information must be submitted pursuant to the standards referenced in OAR 436-160-0004.

(2) To report changes or corrections of an insured employer's name or address, or other data elements, the insurer must transmit the appropriate transaction to specify what data is being changed or corrected.

(3) The insurer's policy number is used to assist in matching each transaction to the appropriate employer. When an insurer changes a policy number, the insurer must report that change with or prior to the next transaction submitted for that policy. Failure to report a change in the policy number will render future filings incapable of being processed by the division's information processing system and the insurer will receive a transaction rejected acknowledgement.

(4) If changing a partner name of an insured or employer does not change the entity, a new guaranty contract or policy does not need to be filed.

(5) To add or delete coverage for corporate officers, members of a limited liability company, partners, sole proprietors or other non-subject workers, the insurer must file the appropriate "include" or "exclude" endorsement transaction to the associated policy filing.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.264, 656.419, 656.423 & 656.427
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-160-0350

Guaranty Contract Filing Requirements

(1) This rule applies to coverage effective before July 1, 2009.

(2) For the purpose of these rules, an electronic guaranty contract consists of an executed trading partner agreement containing the guaranty described in subsection (3)(a) of this rule, and an accepted proof of coverage insured and employer electronic record.

(3) An insurer may file a guaranty contract via EDI by:

(a) Entering into a trading partner agreement with the director under OAR 436-160-0020 that contains a statement of assumption of liability and guaranty of payment under ORS 656.419(1);

(b) Transmitting an electronic record of the proof of coverage data elements identified as mandatory or required conditional under OAR 436-160-0310, including a unique FEIN for each legally distinct employer included in the establishing document transaction; and

(c) Transmitting an establishing document transaction: binder, new policy, renew policy, rewrite/reissue policy, reinstatement, add location, add employer, or add jurisdiction. A renew policy, add location, or add employer transaction will only establish a guaranty contract if the data elements have not previously been transmitted, the employer FEIN is not a duplicate per section (4) below, and coverage for that unique employer FEIN has not been previously established by the reporting carrier. A reinstatement transaction will only establish a new guaranty contract if there is a lapse in coverage and the requirements of ORS 656.419 and OAR 436-160-0350 are otherwise met.

(4) A duplicate FEIN or a FEIN previously reported under the same policy will be recorded as an additional employer location or an assumed business name, but will not establish an additional guaranty contract for effective dates of coverage before July 1, 2009.

(5) Reinstatement, rewrite, and reissue transaction types must follow a cancellation transaction.

(6) If an employer elects to include any non-subject worker(s) under coverage, or subsequently to exclude such workers from coverage, the insurer must submit a transaction with a reason code for including or excluding a corporate officer, partner, member, sole proprietor, or any other person.

(7) Insurers not approved to file guaranty contract information via EDI by December 31, 2008, must continue to file changes to existing guaranty contracts via paper on or after July 1, 2009.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.264, 656.419, 656.423 & 656.427
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-160-0355

Proof of Coverage Filing Requirements

(1) This rule applies to coverage effective on or after July 1, 2009.

(2) An insurer may file proof of coverage via EDI by:

(a) Transmitting an electronic record of the proof of coverage data elements identified as mandatory or required conditional under OAR 436-160-0310, including a unique FEIN for each legally distinct employer included in the establishing document transaction; and

(b) Transmitting an establishing document transaction: binder, new policy, renew policy, rewrite/reissue policy, reinstatement, add location, add employer, or add jurisdiction.

(3) Reinstatement, rewrite, and reissue transaction types must follow a cancellation transaction.

(4) If an employer elects to include any non-subject worker(s) for coverage, or subsequently to exclude such workers from coverage, the insurer must submit a transaction with a reason code for including or excluding a corporate officer, partner, member, sole proprietor, or any other person.

Stat. Authority: ORS 656.726(4)
Stat. Implemented: ORS 656.264, 656.419, 656.423, 656.427
Hist.: WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-160-0360

Guaranty Contract Terminations

(1) For the purposes of EDI, to terminate a guaranty contract when an insurer receives written notice of cancellation of coverage from an employer pursuant to ORS 656.423, the insurer must:

(a) Provide notice to the director no more than ten calendar days after the effective date of termination by transmitting the transaction type for cancellation by insured or nonrenewal by insured. The "transaction effective date" will be used to report the effective date of termination under ORS 656.423 or 656.427;

(b) Retain the employer's written notice for inspection by the division; and

(c) Provide written notice to the employer under ORS 656.423 or ORS 656.427(1) and (3), if required.

(2) For the purposes of EDI, to terminate a guaranty contract for any other reason, the insurer must:

(a) Provide notice to the director no more than ten calendar days after the effective date of termination by transmitting the transaction type for cancellation, nonrenewal, or delete jurisdiction; and

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(b) Provide written notice to the employer under ORS 656.423 or 656.427(1) and (3), if required.

(3) The date of termination must be included in the written notice to the employer to terminate a guaranty contract. For the purposes of notice to the director, the transaction effective date is the termination effective date.

(4) A delete location transaction can be used to notify the director that one or more locations for an employer are no longer workplaces of the employer. This transaction does not meet the requirements of ORS 656.423 or 656.427 for notice of termination.

Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656.264, 656.419, 656.423 & 656.427
Hist.: WCD 3-2003, f. 3-18-03, cert. ef. 4-1-03; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-160-0370

Proof of Coverage Terminations

For policies effective on or after July 1, 2009, to report a cancellation of a policy before the expiration of the policy term, the insurer must:

(1) Provide notice to the director no more than ten calendar days after the effective date of cancellation by transmitting the transaction type for cancellation, delete jurisdiction, or delete location(s). The "transaction set type effective date" will be used to report the effective date of cancellation under ORS 656.423 or 656.427;

(2) Retain a record of the written notice sent to the employer under ORS 656.427 for inspection by the division; and

(3) Provide written notice to the employer under ORS 656.427(1) and (3).

Stat. Authority: ORS 656.726(4)
Stats. Implemented: ORS 656.264, 656.419, 656.423 & 656.427
Hist.: WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

436-160-0410

Medical Bill Electronic Filing Requirements

(1) The chart in Appendix "B" shows all medical bill data elements accepted via EDI in Oregon, and whether the data element is mandatory (M), conditional (C), or optional (O) for each transaction type.

(2) Unless otherwise provided in these rules, the data elements must have the meaning provided in the data dictionary pursuant to OAR 436-160-0004.

(3) Transactions will be rejected if mandatory or required conditional data elements are omitted or submitted in a format that is not capable of being processed by the division's information processing system designated for medical bill transactions.

(4) Optional data element(s) in a transaction will be ignored if the optional data element is either omitted, or submitted in a format that is not capable of being processed by the division's information processing system designated for medical bill transactions.

(5) Unless otherwise provided in these rules, an insurer approved for production transmissions will transmit medical bill data via EDI, and will not submit the same medical bill data via Bulletin 220 proprietary format to the director.

Stat. Auth.: ORS 656.726(4)
Stat. Implemented: ORS 656.264
Hist.: WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 4-2008, f. 9-17-08, cert. ef. 7-1-09

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Department of Corrections Chapter 291

Rule Caption: Inmate Visitation in DOC Facilities.

Adm. Order No.: DOC 24-2008

Filed with Sec. of State: 9-26-2008

Certified to be Effective: 9-26-08

Notice Publication Date: 7-1-2008

Rules Adopted: 291-127-0245

Rules Amended: 291-127-0200, 291-127-0210, 291-127-0220, 291-127-0230, 291-127-0240, 291-127-0250, 291-127-0260, 291-127-0280, 291-127-0285, 291-127-0290, 291-127-0310, 291-127-0330

Subject: These rule modifications are necessary to revise and update the Department's policies that govern the inmate visitation programs in its correctional institutions, and ensure compliance with the Oregon Fairness Act (HB 2007). Major modifications include expanding the definitions of immediate family, restructuring visiting for inmates assigned to special housing units, clarify the administrative review process for individuals whose application has been denied, and reflect organizational and operational changes that have occurred within the Department.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-127-0200

Authority, Purpose and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of these rules is to establish Department policy and procedures regarding inmate visitation, and the administration of visitation programming in Department of Corrections facilities. The Department encourages productive relationships between families and inmates and sees inmate visitation as a positive means to strengthen ties and increase the likelihood of success upon release.

(3) Policy:

(a) Visiting is an integral component of facility management, inmate habilitation and community safety. Visiting can improve public safety, encourage responsible familial relationships and reduce the risk of future criminal behavior.

(b) Within the inherent limitations of resources and the need for facility security, safety, health and good order, it is the policy of the Department of Corrections to permit, promote, facilitate, and encourage approved visitation by inmates with their families, friends, and others in Department of Corrections facilities.

(c) When authorized, visitation in a Department of Corrections facility is permitted neither as a matter of right nor as a privilege of the inmate or the inmate's visitor; rather, visitation in Department of Corrections facilities is permitted by the Department when it furthers the inmate's correctional planning and the Department's correctional goals and mission and is consistent with the safe, secure and orderly management and operation of the facility.

(d) The Department may structure visiting in its correctional facilities as an incentive program for inmates to encourage good institutional conduct.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0210

Definitions

(1) Accompanied Visit: A type of visitation authorized by the Department of Corrections in its correctional facilities in which an inmate is permitted to visit with a minor child who remains in the company of an approved adult visitor with the written consent of the custodial parent or guardian.

(2) Basic Visiting: A type of visitation authorized by the Department of Corrections in its correctional facilities in which an inmate and an approved visitor are permitted to see and talk with each other on a scheduled basis for a reasonable period of time with no physical contact. Basic visiting may be authorized by the Department to take place in person, or through the use of videoconferencing technology.

(3) Caregiver: The person primarily responsible for caring for an inmate's minor child(ren).

(4) Co-Defendant: A person who has been convicted of a crime in which the inmate had some involvement in the same criminal incident(s) which gave rise to the conviction, or who is currently the subject of a criminal prosecution for the same criminal incident(s) involving the inmate.

(5) Conspiracy: An agreement between an inmate and one or more persons to engage in, cause, or conceal a rule violation or criminal activity.

(6) Contraband: Any article or thing which an inmate is prohibited by statute, rule or order from obtaining, possessing, or which the inmate is not specifically authorized to obtain or possess or which the inmate alters without authorization.

(7) Contractor: Any person working or providing services in a Department of Corrections facility under a contractual arrangement to provide services to the Department, or any person employed by private or public sector agencies who is serving under Department-sanctioned special assignment to provide services or support to the department programs.

(8) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(9) Disrespect: Where a visitor directs hostile, sexual, abusive, or threatening language or gestures, verbal or written, towards or about another person.

(10) Disturbance: Conduct or activity which unnecessarily interferes with visitation operations, or which advocates, encourages, promotes or otherwise creates or poses a threat to the safety, security, health and good order of the facility, or the safety and security of inmates, staff, visitors, contractors or the community. A visitor commits a disturbance if he/she advocates, creates, engages in, maintains or promotes an annoying condition or disorder characterized by unruly, noisy, violent conduct which disrupts the orderly administration of the visiting process.

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(11) Domestic Partner: An individual joined in a domestic partnership.

(12) Domestic Partnership: A civil contract entered into in person between two individuals of the same sex who are at least 18 years of age, who are otherwise capable and at least one of whom is a resident of Oregon, which has been filed with the County Clerk and entered in the domestic partnership registry.

(13) Employee: Any person employed full-time, part-time or on temporary appointment by the Department of Corrections.

(14) Excessive Contact: Prolonged or frequent contact between a visitor and an inmate which exceeds the brief embrace and kiss upon meeting and leaving, hand-holding, or holding of children specifically allowed. Excessive is not casual contact, but rather a pattern of contact beyond rule limits.

(15) Holiday: A day recognized and announced annually as a holiday. If the actual and generally recognized holiday differs from the day recognized by the Department of Administrative Services, the holiday recognized for purposes of this rule is the date indicated on the calendar.

(16) Immediate Family Member: Spouse, domestic partner, parent, sibling, child, aunt, uncle, grandchildren and grandparents, including foster, in-law, and step relationships. Immediate family also includes the caregiver of the inmate's minor child(ren).

(17) Inappropriate Relationship: A personal relationship between an inmate or offender and any employee, contractor, or volunteer of the Department of Corrections that developed during the course of employment/contract work/volunteering or as a result of same.

(18) Inmate: Any person under the supervision of Department of Corrections who is not on parole, post prison supervision, or probation status.

(19) Intake Status: That period of time following delivery of an inmate to the custody of the Department of Corrections in which the department conducts its intake processing of the inmate including, but not limited to, the conduct of medical and mental health assessments, custody classification, and identification of programming needs and assignments.

(20) Privileged Visiting: A type of visitation authorized by the Department of Corrections in its correctional facilities in which an inmate and an approved visitor are permitted to see and talk with each other on a scheduled basis for a reasonable period of time with limited physical contact, consisting of a brief embrace and kiss upon meeting and leaving, hand holding, and holding of children.

(21) Reasonable Suspicion: An apparent state of objective facts and rational inferences drawn there from which would permit a reasonable and experienced correctional staff person to conclude that an individual or set of circumstances poses a threat to the safety, security, health and good order of the facility, and/or the safety and security of inmates, staff, visitors, contractors or the community, including, but not limited to, committing a crime or rule violation or conspiring or attempting the same.

(22) Search: A close inspection, including touching in an impartial manner, of a person, vehicle, possessions, or other property, or buildings or premises. For purposes of entering a correctional institution, searches often require the removal and separate inspection of shoes, belts, jackets, and other accessories during processing. Types of searches include the following:

(a) Consent: Inspection of a person or their property conducted with prior permission of the person being searched, or of a person who owns or has in his/her possession that property which is searched.

(b) Frisk: To search a person for something by running the hands over the clothed person, through the hair, inspecting pockets and cuffs, and other items in his/her possession.

(c) Skin: A search procedure wherein the person being searched removes all of his/her clothing and is visually examined and clothing removed is carefully inspected before return and redressing, for the purpose of detecting contraband.

(23) Sexual Activity: Sexual contact including, but not limited to sexual intercourse, kissing, fondling, or manipulation of the genitalia, buttocks, and breasts of another person, or of oneself, in a manner which produces or is intended to produce sexual stimulation or gratification.

(24) Sex Crime Involving a Minor Child: Any conviction (including juvenile adjudications) of a sexual crime committed, attempted or conspired in which a minor child was involved, victimized, or the intended victim.

(25) Special Visiting: Those visits listed below:

(a) A type of visitation authorized by the Department of Corrections in its correctional facilities in which an inmate is permitted to visit with a person who is not on the inmate's approved visiting list;

(b) An extra visit by an inmate and a person who is on the inmate's approved visiting list that is permitted beyond the limits on the number of visits established by these rules and the facility; and

(c) A visit that is permitted at an hour or place at which visits are not normally permitted.

(26) Spouse: A person who is legally married to an inmate.

(27) Termination of Visiting: The end of visiting privileges for the day by order of the visiting area staff or other authorized staff.

(28) Victim: A person who was subjected to direct physical or psychological harm or injury as a result of the criminal conduct of the inmate, past or present, as identified in records or in information available to the Department of Corrections.

(29) Video Visiting: A type of visiting authorized by the Department of Corrections in which an inmate and an approved visitor are permitted to see and talk with each other on a scheduled basis through the use of video-conferencing technology. Video visitation may be used for basic visiting or as a supplement to on-site contact visiting.

(30) Volunteer: An approved person(s) who donates time, knowledge, skills and effort to enhance the mission, activities and programs of the department (includes practicums and interns). Volunteers serve at the pleasure of the department and are not considered employees. Volunteers are subject to the provisions of the Department of Corrections rule on Volunteers and Students Interns (OAR 291-015).

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

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

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 8-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0220

Inmate Eligibility

(1) All inmates, except those inmates in intake status or as specifically provided in these rules, are eligible to apply for visits while confined in a Department of Corrections facility.

(2) Inmates Convicted of Sexual Crimes Involving Minor Children:

(a) Inmates who have a current or prior conviction for a sexual crime involving a minor child are ineligible to visit with any minor child, other than their own biological child. Inmates who have a current or prior conviction for a sexual crime involving their biological, step or foster child, or who have a documented history of sex abuse with their biological, step or foster child are ineligible to visit with any minor child, including their own biological child.

(A) The inmate shall provide or have provided verification that the child is his/her biological child; e.g., birth certificate.

(B) An adopted child is considered a biological child.

(b) An inmate who is ineligible to visit with a minor child under the provisions of this rule may request reconsideration to apply for such visits by writing to the Chief of Inmate Services. The Chief of Inmate Services or designee may authorize such visits if he/she determines these visits will achieve a legitimate correctional objective, in furtherance of the Department's mission.

(A) The written request must include an evaluation which assesses the inmate's risk to minor children. The evaluation shall be conducted by a specialized sex offender evaluator approved by the Department. This evaluation must include a specific issue polygraph performed by a licensed polygrapher approved by the Department.

(B) The Department shall develop a list of suitable evaluators and polygraphers, which will be available to inmates. Cost of the evaluation is the responsibility of the inmate.

(C) The Chief of Inmate Services or designee may request assistance from community corrections resources in making the determination to grant or deny the request.

(D) If an exception is granted, it shall be applied consistently to all Department facilities. The Chief of Inmate Services' decision shall be final and not subject to further review.

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

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

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0230

Eligibility of Prospective Visitors

(1) All persons, except as specifically provided in these rules, are eligible to be considered by the Department for approval to visit an inmate confined in a Department of Corrections facility, upon application and request by the inmate.

(2) Certain Criminal Convictions/ Pending Charges: A person is ineligible to visit an inmate confined in a Department of Corrections facility if the person has been convicted of, or has criminal charges pending against him/her for, the following crimes/criminal activities:

(a) Introduction or supplying, attempting or conspiring to introduce or supply contraband as defined in ORS 162.185;

(b) Possession, control or delivery of an explosive device or substance, including attempt or conspiracy to do the same; or

(c) Assisting an inmate in an escape or unlawful departure from a correctional facility, including an attempt or conspiracy to do the same.

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(3) A person who has a pending criminal charge(s) is ineligible to visit.

(4) A person convicted of a person-to-person crime, past or present, against an inmate is ineligible to visit that inmate.

(5) Inmates on Transitional Leave or Assigned to Department of Corrections Facilities: Inmates on transitional leave or who are assigned to another Department of Corrections facility are ineligible to visit an inmate in a Department of Corrections facility.

(6) A person is ineligible to visit an inmate confined in a Department of Corrections facility if the person has been determined by the Department to have introduced or conspired to introduce contraband as defined in the Department's rule on Prohibited Inmate Conduct (OAR 291-105) and the person was permanently removed from the inmate's visiting list.

(7) Crime Victims: A person is ineligible to visit an inmate confined in a Department of Corrections facility if the person is a victim of the inmate's crime(s) of conviction, past or present.

(8) Co-Defendants: A person is ineligible to visit an inmate confined in a Department of Corrections facility if the person and the inmate were or are co-defendants in any criminal prosecution, past or present.

(9) Drug-Related Crimes/Criminal Activity:

(a) A person who within the last five years has been convicted of any drug-related crime is ineligible to visit an inmate in a Department of Corrections facility.

(b) Once the five year restriction has been satisfied, an individual who has been convicted of, or has criminal charges pending for any drug-related crime as stated above will be eligible to apply for basic visiting. After being on basic visiting status for a minimum of one year, the individual may apply for privileged visiting.

(10) Present or Former Inmates of State, County or Federal Corrections Facilities:

(a) A person who is or has been sentenced and incarcerated for a felony crime in a state, county or federal corrections facility at some time in the past five years is ineligible to visit an inmate confined in a Department of Corrections facility.

(b) Once the five-year restriction has been satisfied, an individual who has been sentenced and incarcerated in a state, county or federal correctional facility as stated above will be eligible to apply for basic visiting. After being on basic visiting status for a minimum of one year, the individual may apply for privileged visiting.

(11) Persons on Probation, Parole or Post-Prison Supervision: Other than immediate family members, a person on probation, parole or post prison supervision is ineligible to visit an inmate in a Department of Corrections facility. Immediate family members who are on probation, parole or post-prison supervision will be eligible to apply for visit with the written consent of the immediate family member's parole/probation officer, or in the case of court-supervised probation, with the written consent of the supervising judge and the approval of the facility superintendent or designee.

(12) Department of Corrections Employees, Volunteers or Contractors:

(a) Current Department of Corrections employees, volunteers and contractors are ineligible to visit an inmate confined in a Department of Corrections facility unless the inmate is a member of the employee's/volunteer's/contractor's immediate family as defined in these rules.

(b) Former Department of Corrections employees, volunteers or contractors who resigned in lieu of removal from their position as a result of an inappropriate relationship with an inmate, or who were discovered after their resignation, retirement or termination to have been engaged in an inappropriate relationship with an inmate, are ineligible to visit an inmate confined in a Department of Corrections facility.

(13) Any exceptions to sections (4) to (12) must have the recommendation of the Chief of Inmate Services or designee and be authorized by the Institutions Administrator or designee.

(a) Any person who is ineligible to visit for the reasons specified above may request reconsideration by writing to the Chief of Inmate Services.

(b) The Institutions Administrator or designee will make the final decision.

(c) If the exception is granted, it must be applied consistently to all Department facilities, unless otherwise stated.

(d) The exception will be cited in the DOC Visitor Tracking System.

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

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

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0240

Approval/Denial of Visiting Application; Restrictions

(1) Visiting Application:

(a) Inmates or prospective visitors must submit a completed visiting application form (CD 50D) for each prospective visitor regardless of their age.

(b) The application must be submitted to the Inmate Services Unit. Inmates shall make the final determination which approved visitors are on their visiting list.

(c) Inmates who are returned to custody in a Department of Corrections facility following an escape or a period of parole or post-prison supervision in the community shall be required to submit a new visiting application for each prospective visitor.

(2) Criminal Records Check: All prospective visitors age 15 years and older shall be subject to a criminal records check as part of the visitation approval process.

(3) Letter of Custodial Consent: If the prospective visitor is an unemancipated minor child, a notarized letter of custodial consent signed by the custodial parent or legal guardian must be submitted to the Inmate Services Unit as part of the visitation approval process. A signed letter of custodial consent is not required if the prospective visitor is an emancipated minor. Once received, signed letters of custodial consent shall be maintained in the inmate's central file.

(4) Approval/Denial of Visiting Application:

(a) Except when authorization is required from the Institutions Administrator, the Inmate Services Unit will approve or deny the visiting application following receipt of the application and any additional required documentation or requested information (e.g., criminal records check, letter of custodial consent, etc). If the visiting application is approved, the approved visitor's name will be placed on the inmate's visiting list along with the type of visitation authorized (i.e., privileged, basic or video).

(b) Prior to approving or denying the application, Inmate Services Unit staff may:

(A) Verify information submitted in the application;

(B) Check the name of the prospective visitor against the volunteer data base;

(C) Request additional information from the inmate, the prospective visitor, law enforcement agencies, or other reliable sources; and

(D) Interview the inmate or prospective visitor.

(c) Applications to visit with prospective visitors who are eligible to visit an inmate confined in a Department of Corrections facility under these rules will generally be approved unless the Department has reasonable suspicion that permitting the visitation would jeopardize the safety, security, health or good order of the facility, or the safety and security of other inmates, staff, visitors, contractors or the community. Specific reasons for denial include, but are not limited to, the following:

(A) The inmate or prospective visitor has previously introduced contraband into a jail or other corrections facility, or there is reasonable suspicion that the inmate or prospective visitor will introduce contraband into a Department of Corrections facility through the visiting process.

(B) The inmate or prospective visitor has previously disrupted the visiting process or violated visiting rules and procedures within a jail or other corrections facility by words or acts, or there is reasonable suspicion that the inmate or prospective visitor will disrupt the visiting process or violate visiting rules and procedures within a Department of Corrections facility by words or acts.

(C) The inmate or proposed visitor has intentionally submitted false information to the Department as part of the visiting application process.

(D) There is reasonable suspicion that the inmate or prospective visitor is engaged in any form of criminal activity in the community or within a Department of Corrections facility.

(E) The prospective visitor has refused to submit to a search based upon reasonable suspicion during a prior visit to any Department of Corrections facility.

(5) A prospective visitor may not be on more than one inmate's approved visiting list at the facility where the inmate is confined, unless the prospective visitor is an immediate family member.

(6) Children Maximum Number of Approved Visitors:

(a) Inmates may be permitted a maximum of 15 approved visitors on their respective visiting lists.

(b) Under 13 Years of Age: The name of each approved visitor shall appear on the inmate's visiting list; however, persons under 13 years of age shall not be counted toward the maximum number of approved visitors, although their names must still appear on the list.

(c) Children Under 18 Years of Age: Children under 18 years of age may visit on any of the regular visiting days when accompanied by an adult visitor on the inmate's approved visiting list. Both visitors must be visiting the same inmate at the same time. Exceptions may be specifically authorized by the facility superintendent or designee.

(7) Denial for Submitting False Information: An inmate or prospective visitor who has intentionally submitted false information to the Department as part of the visiting application process will be denied visita-

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tion for at least one year, after which time the inmate may submit a new visiting application for approval in accordance with these rules.

(8) **Restriction to Basic Visiting for Drug-Related Activity:** An inmate who has been found in violation of the Department's rules of prohibited inmate conduct for drug-related activity, including attempt or conspiracy, may have his/her visits restricted to basic visiting as included in the sanction on the final order in accordance with the rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(9) **Notification to Inmate of Decision on Visiting Application:** After Inmate Services Unit receives the application, inmates will receive notification whether it has been approved or denied. Some applications may be deferred for further processing.

(a) If the application is approved, the notice will include a designation of the type of visiting that has been authorized (i.e., privileged or basic).

(b) If visiting is denied, the notice shall include the specific grounds for denial upon which the decision is based, and inform the inmate that he/she may request an administrative review as specified in OAR 291-127-0245.

(10) **Notification to Prospective Visitor of Decision on Visiting Application/Inquiries:**

(a) Inmates are responsible for informing their prospective visitor(s) whether the visiting application has been approved or denied. Copies of the Department of Corrections rule on Visiting (Inmate) will be available for review by prospective visitors at each functional unit's visiting desk or reception area and the Department's website <http://www.oregon.gov/DOC>.

(b) Inquiries by prospective visitors regarding Department decisions to approve or deny an inmate's visiting application must be in writing and directed to the Inmate Services Unit. Department of Corrections staff will not respond to telephone inquiries by prospective visitors regarding Department decisions to approve or deny an inmate's visiting application.

(11) A visitor shall be removed from an inmate's approved visiting list upon written request by either the inmate or the approved visitor. If a visitor is removed from an inmate's approved visiting list at the request of the visitor or inmate, the visitor may not appeal this decision and, the visitor shall not be eligible to again be placed on the inmate's visiting list, or on any other inmate's approved visiting list, for a minimum of 90 days.

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

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

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0245

Administrative Review for Denial of Visiting Application

(1) An inmate or prospective visitor may request an administrative review if the visiting application is denied by writing to the Chief of Inmate Services or designee.

(2) The Institutions Administrator or designee will issue a decision. The decision is final and not subject to further appeal. If the appeal is denied, the prospective visitor or inmate may reapply after a one year period.

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

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

Hist.: DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0250

Limitations on Number of Visits/Number of Visitors Allowed at One Time for Inmates Assigned to General Population

(1) **Limitations on Number of Visits Per Calendar Month:** The number of visits approved in any calendar month for inmates assigned to general population in a Department of Corrections facility shall be limited in accordance with the following point value system:

(a) Each inmate who is permitted visiting (privileged, basic or video) shall be allocated 24 visiting points per calendar month.

(b) Visiting points shall not be deducted for a child one year of age and under, as long as the child is held during the visiting session. Visiting points shall not be deducted for visitors age 65 and older.

(c) On weekdays, one point shall be deducted for each visitor per visiting session.

(d) On weekends and holidays, two points shall be deducted for each visitor per visiting session, except in those Department of Corrections facilities with weekend visiting only, in which case one point shall be deducted for each visitor per visiting session.

(e) Based on space availability, the superintendent/designee may permit visitation periods when points are not deducted for visits with minor children.

(2) **Limitation on Number of Visits on Weekends and Holidays:** Inmates assigned to general population in a Department of Corrections facility may be permitted only one visiting session per visitor per day on weekends and holidays. Department of Corrections facilities shall take into consideration hours the visitors have traveled and any other extraneous situations that may warrant permitting two visiting sessions per day on week-

ends and holidays at the discretion of the facility superintendent or designee.

(3) **Limitation on Number of Visitors Per Visit:** Due to physical plant design, facilities may limit the number of visitors to no more than three or four persons at one time at the discretion of the facility superintendent or designee. Children under the age of three shall not be counted as part of the maximum number of visitors. Those with minor children exceeding these limitations may appeal to the superintendent or designee for approval in advance of the visiting.

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

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

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0260

Time, Length, and Place of Visits

(1) The time, length, and place of visits shall be posted at the visiting desk and visiting room of each Department of Corrections facility.

(2) **Termination of Visits:** Visits may be terminated by the facility superintendent or designated staff at their discretion at any time due to space limitations or as deemed necessary to maintain the safety, security, health and good order of the facility, or the safety and security of other inmates, staff, visitors, contractors or the community.

(3) Visitors who engage in a disturbance or other inappropriate conduct as defined in these rules, or who loiter in or about a Department of Corrections facility, shall be subject to removal from the facility by Department staff. The officer-in-charge of the facility may notify law enforcement officials for assistance if the visitor refuses to leave the facility when requested by Department staff.

(4) Except for minimum-security facilities, privileged visiting normally occurs five days per week, including state holidays. Due to physical plant design, work environment or staff level, facilities may limit or expand number of days, length, and time of visits at the discretion of the superintendent. The Oregon State Penitentiary will provide visits seven days per week.

(5) **Inmates Assigned to General Population:**

(a) Visitation for inmates assigned to general population shall take place during regular visiting hours.

(b) Except for minimum-security facilities, visitors will be accommodated on a first come, first serve basis. Facilities may schedule appointments for visiting.

(c) **Basic Visiting:**

(A) An inmate assigned to general population in a Department of Corrections facility whose visits are restricted to basic visiting shall be permitted eight visiting sessions per month, four of which must occur on weekdays.

(B) Only two visitors shall be allowed. A third person shall be permitted if he/she is under three years of age and is held on the lap. Exceptions may be specifically authorized by the superintendent or designee.

(C) Duration of visits shall be established by the facility superintendent or designee, and shall be limited to no more than one hour in length, depending upon space availability

(6) **Disciplinary Segregation:**

(a) Inmates assigned to Disciplinary Segregation may be permitted basic visiting with two visitors whom they have selected from their visiting list. The two visitors selected may be changed every six months.

(b) Visits shall be scheduled in advance, and limited to one visit per week.

(c) Duration of visits shall be established by the facility superintendent or designee, and shall be limited to no more than one hour in length, depending upon space availability.

(7) **Death Row:** Inmates assigned to Death Row who are approved for visiting shall be permitted two visits per week with approved visitors on their visiting list. The maximum length of visits is limited to two hours, depending upon space availability. Visits shall be scheduled in advance.

(8) **Administrative Housing:** Inmates assigned to Administrative Housing may be permitted visits with approved visitors on their visiting list. The facility superintendent or designee shall determine the duration of the visit based upon space availability. Visits shall be scheduled in advance.

(9) **Mental Health Infirmary (MHI):** Inmates assigned to an MHI at a Department of Corrections facility may be permitted visits with approved visitors on their visiting list in the unit or the main visiting room, subject to recommendation of a psychiatrist and with the approval of the facility superintendent/designee. The facility superintendent or designee shall direct the type of visiting permitted (privileged or basic), upon recommendation of the psychiatrist. No minor children will be permitted to visit with the inmate if the visit occurs in the unit. Visitors must call in advance to schedule a visiting appointment.

(10) **Intensive Management Unit (IMU):**

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(a) Inmates assigned to an Intensive Management Unit or cell may be permitted basic visiting with two visitors whom they have selected from their visiting list. Visits will be based on the inmate's program level. The two visitors selected may be changed every six months.

(b) Visits will be conducted in a designated basic visiting area for IMU status inmates. Visits shall be scheduled in advance.

(11) Infirmary: Inmates assigned to the Infirmary at a Department of Corrections facility may be permitted visits as follows:

(a) Inmates who are permanently assigned to the Infirmary at a Department of Corrections facility may be permitted privileged visiting in the main visiting area with approved visitors on their visiting list, upon recommendation of Health Services staff. Visitation by inmates approved for privileged visiting in the main visiting area shall be subject to the 24 visiting point system set forth in OAR 291-127-0250.

(b) Inmates who are patients in the Infirmary, but are not permanently assigned to the Infirmary, and who are approved for privileged visiting may be permitted visits with two adult visitors whom they have selected from their visiting list in the Infirmary, except as otherwise recommended by Health Services staff or the facility superintendent or designee. The two visitors selected may be changed every six months. Visits shall be scheduled in advance.

(c) Inmates participating in a Department of Corrections Hospice program may be permitted extended visitation on a case-by-case basis, upon recommendation of Health Services staff and as authorized by facility superintendent or designee. Visitation in the Hospice program is not a part of the regular visitation program.

(d) Community Hospitalization: Inmates assigned to community hospitalization and under Department of Corrections supervision may be permitted visits as follows:

(A) Inmates assigned to general population and the Infirmary in a Department of Corrections facility prior to their current hospital admission may be permitted visiting during the course of their hospital stay, upon authorization of the facility superintendent and consent of the attending physician or hospital administration.

(i) Visits must be scheduled in advance with institution staff. Visits shall be during normal hospital visiting hours.

(ii) Duration of visits shall be determined by the superintendent/designee.

(B) Inmates assigned to the Disciplinary Segregation Unit, Administrative Housing, Mental Health Infirmary, and Death Row prior to their current hospital admission will only be permitted visits on a case-by-case basis, upon recommendation of Health Services staff, and as authorized by the facility superintendent or designee.

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

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

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 8-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0280

Special Visits

(1) Inmates confined in a Department of Corrections facility may be permitted special visits at the discretion of the facility superintendent or designee in accordance with these rules.

(2) General Guidelines:

(a) Inmate requests for special visits shall be directed in writing to the facility superintendent or designated staff at least 30 days prior to the date of a requested special visit. The 30-day requirement may be waived if emergency or unusual circumstances exist.

(b) Type of Visit: Special visits shall be restricted to basic visiting if a criminal background check cannot be made.

(3) Professional and Therapeutic/Programming Visits:

(a) Visitation for nonsocial purposes by attorneys, representatives of criminal justice agencies, state or local agencies, other public or government agencies, or for therapeutic or programming purposes may be approved as business, professional, therapeutic or programming visits.

(A) Professional and therapeutic or programming visits shall be approved in advance by the facility superintendent or designee. Such visits should be made by appointment during regular visiting hours or hours as designated by the facility.

(B) Persons approved for these types of visits with an inmate must present credentials/ identification at the facility visiting desk or reception area sufficient to identify themselves. These types of visits are not subject to a point deduction.

(b) Attorneys and representatives from other criminal justice, state or local agencies may be permitted to bring necessary documents or paperwork into the visiting area for exchange with the inmate with prior approval of visiting staff. Computers, tape recorders, and other electronic devices may be permitted upon the approval of the facility superintendent or designee. All articles shall be searched for contraband.

(c) These types of visits shall be permitted with only one inmate at a time, except as otherwise authorized in advance by the facility superintendent or designee.

(4) Non-cash Incentives Program Visits:

(a) Inmates may be afforded extra visitation opportunities as part of the non-cash incentives program outlined in the Department's rule on Performance Recognition and Award System (Inmate) (OAR 291-077). Such opportunities will depend upon each institution's ability to accommodate enhanced visitation.

(b) Each institution's incentive visitation opportunities will be listed in their institution specific matrix of services and privileges.

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

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

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0285

Keeping an Inmate's List of Approved Visitors Current

(1) Minimally every two years, the Inmate Services Unit will send the inmate a list of visitors who have not visited the inmate within the previous two years.

(2) If a visitor has not visited the inmate within the previous two years, the visitor will be automatically removed from the inmate's visiting list and the DOC Visitor Tracking System, unless the inmate notifies the Inmate Services Unit otherwise.

(3) A LEDS check will be conducted every two years on all visitors.

(4) Visitors are responsible for notifying the Department in writing of a change of address, or a name change. If it is a name change, the visitor must provide verification of the name change; e.g., marriage certificate.

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

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

Hist.: DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0290

Visiting Security Screening and Visiting Room Protocol

Visiting is an important component within the correctional system. In order to enhance the visiting experience, the Department has developed protocol for visitors and inmates. Visitors are encouraged to view the agency website at <http://www.oregon.gov/DOC> or contact the facility for visiting hours, number of visitors, restroom use, parking, etc.

(1) Visiting staff will make every effort to ensure that visitors have an opportunity to visit on the day they arrive.

(2) Visiting Security Screening: Visitors must be processed through a security checkpoint to access the visiting area within all ODOC facilities. Security staff will screen all visitors and search any authorized hand-carried items in accordance with the Department's rules and facility procedures.

(a) Processing may require the removal of shoes, jackets, sweaters, suspenders, belts or other accessories for closer inspection or separate processing.

(b) Areas of the body that have body piercings or undergarments with an underwire often alarm metal detectors and may delay or even prevent visiting. Visitors may be asked to remove body piercings or jewelry to expedite the screening process.

(3) For security purposes, initial screening of visitors will be done by metal detector. For most visitors, successfully completing the scan by metal detector and the related inspection of clothing and authorized personal items will preclude additional screening.

(a) At institutions equipped with a functional walk-through metal detector, all visitors must successfully pass through the detector unless a visitor has a documented medical condition or disability that would preclude the visitor from passing through the detector.

(b) At institutions or facilities without a functioning walk-through metal detector, a handwand type of metal detector may be used.

(4) Additional Screening:

(a) Additional Screening will occur when an individual sets off the alarm of the metal detector, an individual is selected for additional screening, or an individual has provided documentation to substantiate a condition that precludes successful screening by metal detector. This additional screening may include either a hand-wand inspection in conjunction with a frisk search of the visitor's body, including the torso; a frisk search alone; or a skin search.

(b) At this time, visitors should let staff know of any personal needs or concerns a visitor may have due to religious or cultural considerations, disability, or other medical concern.

(c) Additional searches will be conducted by staff of the same gender as the visitor.

(5) Hand-Wand Inspection: A hand-wand inspection helps staff to identify what may have set off the alarm on the walk-through metal detector or to confirm an alarm present during the initial screening. During the wand procedure the visitor will be asked to stand with feet and legs apart

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and arms out to the side while the staff member passes the wand in close proximity to all areas of the visitor's body.

(6) Frisk Search: A frisk search complements the hand-wand inspection but may be performed as a stand-alone procedure, when appropriate, or to resolve alarms set off during an inspection by metal detector. In order to ensure security, this inspection may include touching sensitive areas of the body.

(7) Skin Search: A skin search is a security procedure that involves visual inspection of a person's body with all of their clothing removed and a thorough inspection of the person's clothing for the purpose of detecting contraband. No visitor will be asked to submit to a skin search except as provided in the Department's rule on Searches (Institutions) (OAR 291-041).

(8) Persons with Disabilities, Medical Conditions, or Medical Devices (or both):

(a) Medical Condition or Disability: Visitors with documentation regarding a medical condition or disability must present this information to staff to help inform staff of the visitor's situation. This documentation will not exempt the visitor from the security screening process. Visitors with proper documentation of a medical condition or disability that would preclude their passing through a walk-through metal detector or handwanding or both will be offered a frisk search as an alternative.

(b) Medical Devices:

(A) Visitors with a medical device (on the interior or exterior of their body) should check with their doctor prior to arriving at the institution to determine if it is safe to go through the metal detector or be handwanded. Visitors that have been advised by their doctor that they should not go through the metal detector or be handwanded must provide staff with documentation of the same. A visitor with the proper documentation will be offered a frisk search as an alternative.

(B) Pacemaker, Defibrillator, Other Implanted Medical Devices, Metal Implants, and Wheelchairs:

(i) If a visitor has an implanted medical device that the visitor would like to remain private and confidential, the visitor should ask staff to please be discrete when assisting him or her through the security screening process.

(ii) Visitors with a pacemaker should carry a Pacemaker Identification Card (ID) when attempting to visit. Visitors showing staff a valid pacemaker ID will be offered a frisk search as an alternative to passing through the walk-through metal detector or being handwanded.

(iii) To expedite the processing of visitors, it is recommended (but not required) that the visitor advise staff that he or she has an implanted pacemaker, other implanted medical device, or metal implant and where that implant is located.

(iv) Staff will offer the visitor a frisk search as an alternative once it becomes known that the visitor has a metal implant or implanted medical device.

(v) If the visitor's doctor has indicated that the visitor should not go through the metal detector or be handwanded because it could affect the functionality of the visitor's device, the visitor must inform staff and provide proper documentation of the same. A visitor with the proper documentation will be offered a frisk search as an alternative.

(vi) If a visitor has an implanted bone growth stimulator or other device that operates under a specific magnetic calibration, which cannot be x-rayed because the calibration of these units cannot be disrupted, staff will offer a frisk search in combination with a physical inspection of the device as an alternative to being x-rayed.

(vii) Staff will need to resolve all alarms associated with metal implants. Most alarms will be able to be resolved during a frisk search and should not typically require the lifting or removal of clothing.

(viii) Visitors who are confined to wheelchairs will be required to present a medical card or documentation to support their need to be in the wheelchair. A modified frisk search will be used for visitors confined to wheelchairs as the reliability of handheld metal detectors is limited by the structure of the chair itself. Visitors in wheelchairs will limit their accessories and personal possessions to only those items medically necessary during the visiting session.

(c) If a visitor chooses not to submit to a frisk search, the visit may not be allowed to occur.

(d) Skin searches will only be conducted in accordance with the Department's rule on Searches (Institutions) (OAR 291-041).

(9) Should a visitor withdraw consent at any time once a search, of any kind, has been initiated, the searching officer will discontinue the search immediately. The visitor will not be allowed to visit.

(10) Within the limits of available resources, staff will be discrete when conducting all searches and inspections of visitors.

(11) Visiting staff will assign visitors locations that are appropriate for the size and make-up of the group, in conjunction with space availability.

(12) Physical Contact: Visitors who are approved for privileged visiting may briefly embrace and kiss the inmate at the beginning and end of the

visits. Hand-holding and holding of small children eight years of age and under is permitted during the visit.

(13) Appropriate Clothing/Dress: In order to maintain a positive environment for all inmates and visitors, a reasonable clothing standard must be established. Visitors are encouraged to wear clothing that is conservative in nature in order to maintain a respectful visiting environment. Some types of clothing may also be prohibited to maintain the security of the facility. Children eight years of age and under are not subject to the following clothing restrictions, other than undergarments.

(a) Visitors are not allowed to wear blue denim or clothing (blue t-shirts or blue shirts) that is similar to inmate attire. This restriction is necessary to ensure the safety of all individuals if an emergency arises. Visitors should check with the specific facility they are visiting to inquire about clothing that is prohibited because it is similar to inmate attire.

(b) Clothing that is unduly suggestive or form fitting is prohibited as it may draw undue attention.

(c) Dresses, skirts, jumpers, culottes, and shorts shall not be worn more than two inches above the middle of the kneecap. Slit dresses/skirts shall be permitted only if the slit is not more than two inches above the middle of the kneecap. Wrap around skirts are not permitted.

(d) Clothing that exposes an undue amount of flesh (e.g., exposing chest, back, thighs, or midsection) is prohibited. Examples of clothing that will be prohibited include: halter tops/dress, tube tops, see-through clothing, sheer fabrics, mini-skirts, shirts with low cut neck lines, wrap around skirts, and crop tops.

(e) Visitors are required to wear undergarments.

(f) Umbrellas, hats, outer garments such as raincoats, ski jackets and other garments that protect against rain and other inclement weather are normally prohibited within the main visiting room. Some visiting rooms require outside travel once checked in. In these cases, the institution will provide a designated area for the garment.

(g) Light-weight sweaters, jackets, and sport or suit coats are permitted, but must be worn by the visitor during the entire visiting session. Hooded sweatshirts and lined jackets or coats are permitted.

(h) Accommodations will be made on a case-by-case basis for religious head gear consistent with security practices. Where possible, arrangements should be made prior to visit.

(i) Clothing, hairstyles, insignias or other paraphernalia associated with security threat groups or that create undue attention or conflict are prohibited; i.e., camouflage clothing, slogans, suggestive, or controversial statements.

(j) Footwear must be worn.

(k) Inmates shall wear institution-issued clothing, undergarments, and footwear into the visiting area. Inmates will conform to specific institution requirements regarding appropriate attire for the visiting room.

(14) Restriction on Exchange of Objects/Articles with Inmates:

(a) Other than items from the vending machines and five non-Poloroid photographs or five sheets of photographs, visitors shall not exchange any object or article with an inmate. Photographs observed during the visit may not be given to the inmate.

(b) Paper items produced by children during the visiting session with materials provided may be taken out by the child or displayed in the visiting room.

(c) All documents and items shall be searched prior to entering or leaving the visiting room/area.

(15) Visitors shall appropriately supervise children at all times while in the visitation or play area. Visitors must ensure that children do not become disruptive to the point that they interfere with other visits, or jeopardize the security of the visiting environment. If this occurs, a visit may be ended prematurely to remove the child.

(16) Visitors shall not engage in a disturbance, as defined in this rule.

(17) Explosive devices, firearms, ammunition, alcoholic beverages, narcotics, dangerous drugs, or objects or material of any kind which might be used to compromise the safety and security of the facility are not permitted on facility grounds. Tobacco products are not permitted in the visiting area, and depending on the facility, may not be permitted on facility grounds.

(18) Any visitor who exhibits indication of the use of alcohol, narcotics, or other intoxicants shall not be permitted to visit.

(19) Items Purchased from Facility Vending Machines:

(a) All items purchased from the vending machines must be consumed or disposed of in the visiting facility, unless authorized by the superintendent/designee.

(b) Inmates shall be prohibited from handling money or tokens, and from approaching or operating the vending machines.

(20) No cash or negotiable instruments other than up to \$15 per visitor in change, tokens or other authorized cash substitute devices if applicable, shall be allowed in the visiting area. Tokens carried into the visiting area must be clearly inspected and approved by visiting room staff.

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(21) Medical Devices: Medical devices; e.g., inhalers, nitro, necessary for the visitor's health may be brought into the visiting area.

(22) Loitering on facility grounds is not permitted. Visitors are expected to arrive at a reasonable time prior to the session and leave immediately afterward. Attempts to communicate with inmates from the grounds before or after the visiting session may cause review of the visitor's visiting status.

(23) Parking Guidelines:

(a) Visitors shall park and secure their automobiles in the designated visitor parking lot.

(b) Minor children or animals shall not be left unattended in cars or on institution property.

(c) Parking for visitors with disabilities will be available in designated areas.

(24) Entry to Department of Corrections Facility/Facility Visiting Area:

(a) Upon arrival at the visiting desk or reception area, the visitor shall sign a registration form and present proper identification (ID). One of the following current photo ID's will be required as identification for visitors age 16 and over to enter a Department of Corrections facility:

(A) Drivers license or state identification;

(B) Passport;

(C) State identification card (state employee or Motor Vehicle Division);

(D) Military identification;

(E) Student identification card; or

(F) Other official governmental identification.

(b) Privileged visiting shall not be permitted without the required current photo ID. However, basic visiting may be approved with at least two of the following pieces of identification:

(A) Social Security Card;

(B) Birth certificate or registration;

(C) Current identification card from service organizations (other than military) with picture and signature; or

(D) Current bankcards and signature.

(c) Children under 16 years of age may also use the following appropriate ID:

(A) Birth certificate or registration;

(B) Social security card;

(C) Oregon Health Plan medical card;

(D) Smile Safe Kids identification card;

(E) Student body card; or

(F) State identification card

(d) Lockers may be provided for visitor use to store purses, carrying cases, etc., until the visit is over.

(e) Baby-care items shall be permitted as follows per child: two diapers, one clear bottle (plastic), one single layer blanket, one pacifier, and diaper wipes (in clear plastic bag). All items shall be subject to search.

(f) Restrooms:

(A) Restrooms are available for visitor use. For the safety of the child, only an outside escort may accompany a child to the restroom.

(B) Depending on the physical plant design of the facility, a restroom(s) separate from that used by visitors may be available for inmate use. If the facility does not have a restroom available for inmate use, the visit shall be terminated if the inmate must leave to use a restroom. Inmates with a documented medical condition as verified by Health Services staff shall be permitted restroom privileges in those facilities where inmate restrooms are not available.

(g) Once a visitor or an inmate leaves the visiting area other than to access the restroom, the visit shall be terminated.

(h) Once visitors and inmates have been assigned seating in the visiting area, changing location requires approval of the visiting room supervisor.

(i) Neither a visitor nor an inmate shall be permitted to visit with a person who is not specifically authorized for the current visit.

(j) Visitors shall not be permitted to visit twice in one visiting session.

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

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

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0310

Termination/Disallowal of Visits

(1) The facility superintendent or designee may disallow or terminate a visit at any time due to space limitations or as deemed necessary to maintain the safety, security, health and good order of the facility, or the safety and security of other inmates, staff, visitors, contractors or the community.

(a) Factors to be considered before a visit is terminated due to space limitations will be the distance visitors travel, frequency of visits, and time of arrival.

(b) Visiting room staff will maintain a log of visits terminated due to space limitations to avoid having an inmate's visits terminated consecutively.

(2) Violation of visiting room protocol by a visitor, or violation of rules of prohibited conduct by an inmate shall result, at a minimum, in disallow or termination of the visit.

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

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

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08

291-127-0330

Administrative Review for Removal From Visiting List or Restriction to Basic Visiting

(1) An approved visitor who has been removed from an inmate's approved visiting list, or whose visitation with the inmate has been restricted to basic visiting, may obtain an administrative review of the action by submitting a written request for administrative review to the Assistant Director for Operations or designee at the Department's Central Administrative offices. The Assistant Director or designee must receive the administrative review request within 30 days of the issuance of the superintendent's final decision, as specified in OAR 291-127-0320(2). The administrative review request must be in writing and should specify the reason(s) why the visitation action should not be sustained.

(2) Upon receipt of a timely written request for administrative review, the Assistant Director or designee will review the visitation action, and affirm, reverse or otherwise modify the action as circumstances warrant. The decision of the Assistant Director or designee shall be final. A copy of the decision shall be provided to the person requesting the administrative review, the affected inmate, and the superintendent.

(3) Administrative reviews will not be provided to visitors for inmate misconduct resulting in disciplinary sanctions imposed upon inmates in accordance with the Department of Corrections rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

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

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

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08

Rule Caption: Marriages and Domestic Partnerships Solemnization Ceremonies for Inmates in DOC Facilities.

Adm. Order No.: DOC 25-2008

Filed with Sec. of State: 9-26-2008

Certified to be Effective: 9-26-08

Notice Publication Date: 5-1-2008

Rules Amended: 291-133-0005, 291-133-0010, 291-133-0015, 291-133-0025, 291-133-0035

Rules Repealed: 291-133-0045

Subject: The amendments are necessary to modify the rules to comply with HB 2007 (Oregon Family Fairness Act) and permits inmates who have entered into a domestic partnership to participate in a solemnization ceremony in a Department of Corrections facility.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-133-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 137.285, 179.040, 423.020, 423.030, and 423.075, and 2007 Or Laws, Chapter 99.

(2) Purpose: To establish Department of Corrections policies and procedures regarding inmate marriages or solemnization ceremonies for inmates that have established a domestic partnership, conducted in a Department of Corrections facility.

(3) Policy: Within the inherent limitations of resources, and the need for facility security, safety, health and good order, it is the policy of the Department of Corrections to permit an inmate to marry a person of the opposite sex in an ODOC correctional facility, including another inmate, and to permit an inmate that has established a domestic partnership to participate in a solemnization ceremony in a Department of Corrections facility, provided that the marriage or domestic partnership is otherwise legal under Oregon law, and is not inconsistent with the safe, secure and orderly operation of a Department of Corrections facility, inmate rehabilitation, or other penological interest.

Stat. Auth.: ORS 137.285, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.285, 179.040, 423.020, 423.030, 423.075 & 2007 OL Ch. 99

Hist.: CD 31-1978, f. 10-24-78, ef. 10-25-78; CD 18-1981(Temp), f. & ef. 6-30-81; CD 50-1981, f. & ef. 10-30-81; CD 58-1985, f. & ef. 8-16-85; CD 48-1986, f. & ef. 11-20-86; CD 22-1991, f. & cert. ef. 9-20-91; CD 11-1993(Temp), f. 4-21-93, cert. ef. 4-26-93; CD 28-1993, f. 10-22-93, cert. ef. 10-23-93; DOC 5-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 25-2008, f. & cert. ef. 9-26-08

ADMINISTRATIVE RULES

291-133-0010

Definitions

(1) Applicant: For the purposes of these rules, "applicant" refers to an inmate incarcerated in a Department of Corrections facility who submits a Request for Inmate Marriage or Domestic Partnership Solemnization Ceremony form.

(2) Death Row Status: An inmate who has received a sentence of death and is assigned to Death Row Housing.

(3) Department of Corrections Facility: Any institution, facility, or staff office, including the grounds, operated by the Department of Corrections.

(4) Domestic Partner: An individual joined in a domestic partnership.

(5) Domestic Partnership: A civil contract entered into in person between two individuals of the same sex who are at least 18 years of age, who are otherwise capable and at least one of whom is a resident of Oregon, which has been filed with the County Clerk and entered in the domestic partnership registry.

(6) Immediate Family Member: As defined in the DOC rule for Visiting, OAR 291-127-0210.

(7) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post prison supervision, or probation status.

(8) Solemnization Ceremony: A ceremony to celebrate the establishment of a domestic partnership.

Stat. Auth.: ORS 137.285, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.285, 179.040, 423.020, 423.030, 423.075 & 2007 OL Ch. 99 Hist.: CD 31-1978, f. 10-24-78, ef. 10-25-78; CD 18-1981(Temp), f. & ef. 6-30-81; CD 50-1981, f. & ef. 10-30-81; CD 58-1985, f. & ef. 8-16-85; CD 48-1986, f. & ef. 11-20-86; CD 22-1991, f. & cert. ef. 9-20-91; CD 11-1993(Temp), f. 4-21-93, cert. ef. 4-26-93; CD 28-1993, f. 10-22-93, cert. ef. 10-23-93; DOC 8-2002, f. & cert. ef. 6-12-02; DOC 5-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 25-2008, f. & cert. ef. 9-26-08

291-133-0015

Marriage or Domestic Partnership Solemnization Ceremony Application, Approval, and Eligibility Requirements

(1) An inmate incarcerated in a Department of Corrections facility wishing to marry or have a domestic partnership solemnization ceremony may obtain necessary forms from designated staff.

(2) Marriages and domestic partnership solemnization ceremonies in a Department of Corrections facility will occur two times per year on the fourth Mondays of April and October.

(3) A Request for Inmate Marriage or Domestic Partnership Solemnization Ceremony form must be submitted for approval to designated staff at least six weeks prior to the scheduled marriage or ceremony date.

(a) An inmate requesting a solemnization ceremony must also submit a certified copy of the inmate's Declaration of Domestic Partnership registered with the County Clerk's Office.

(b) Designated staff shall approve or disapprove the request within 15 working days following receipt, except that approval or disapproval may be delayed for up to 30 working days if the accuracy of the information provided on the Request for Inmate Marriage or Domestic Partnership Solemnization Ceremony form is in doubt.

(4) An applicant and prospective spouse, and an applicant's domestic partner, must meet the following eligibility requirements:

(a) The applicant is confined in a Department of Corrections facility at the time of the application and remains so until the marriage or domestic partnership solemnization ceremony.

(b) The applicant has no major disciplinary misconduct sanctions six weeks prior to the marriage or domestic partnership solemnization ceremony date and remains without any such sanctions until the marriage or domestic partnership solemnization ceremony.

(c) Neither the marriage applicant nor the applicant's prospective spouse is currently married, mentally incapacitated, of blood relation of first cousins or closer, or of the same sex.

(d) Both the applicant and prospective spouse, or the applicant's domestic partner, are approved for privileged visitation under the Department of Corrections' rule on Visiting (Inmate) (OAR 291-127) at the time of the application, or if not at the time of the application, at least six weeks prior to the scheduled marriage or domestic partnership solemnization ceremony date and remain so qualified until the marriage or domestic partnership solemnization ceremony date. This eligibility requirement for privileged visiting may be waived for an applicant who is assigned to administrative housing for reasons of protective custody, or for an applicant who is on death row status.

(e) The applicant, whether indigent or not, accepts responsibility for all fees incurred related to the marriage or domestic partnership solemnization ceremony process, such as the marriage license fee and ceremony expenses.

(f) The necessary procedures for the issuance of a marriage license and performance of the marriage ceremony, or for the performance of the solemnization ceremony, is not inconsistent with the safe, secure and order-

ly operation of the Department of Corrections facility, inmate rehabilitation, or other penological interest.

(g) Approval may be withdrawn by the functional unit manager, or by designated staff, if the applicant later becomes ineligible.

Stat. Auth.: ORS 137.285, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.285, 179.040, 423.020, 423.030, 423.075 & 2007 OL Ch. 99 Hist.: CD 31-1978, f. 10-24-78, ef. 10-25-78; CD 18-1981(Temp), f. & ef. 6-30-81; CD 50-1981, f. & ef. 10-30-81; CD 28-1983, f. & ef. 7-11-83; CD 58-1985, f. & ef. 8-16-85; CD 48-1986, f. & ef. 11-20-86; CD 22-1991, f. & cert. ef. 9-20-91; CD 11-1993(Temp), f. 4-21-93, cert. ef. 4-26-93; CD 28-1993, f. 10-22-93, cert. ef. 10-23-93; DOC 8-2002, f. & cert. ef. 6-12-02; DOC 5-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 25-2008, f. & cert. ef. 9-26-08

291-133-0025

Marriage or Domestic Partnership Solemnization Ceremony

(1) Staff will arrange for the marriage or domestic partnership solemnization ceremony to be scheduled in the area designated after all necessary forms are processed and confirmations have been made.

(2) All guests (including participants) attending the marriage or domestic partnership solemnization ceremony must be approved for privileged visiting in accordance with the Department of Corrections rule on Visiting (Inmate) (OAR 291-127) on the day of the ceremony. In accordance with 291-133-0015(4)(d), this requirement may be waived for an applicant who is assigned to administrative housing for reasons of protective custody, or for an applicant who is on death row status.

(a) All guests will be processed into the institution in accordance with procedures for regular privileged visiting.

(b) A maximum of ten guests (not including the official performing the marriage or individual conducting the domestic partnership solemnization ceremony) will be permitted to attend the ceremony with the applicants.

(3) An inmate who is an immediate family member of the bride or groom or domestic partner may attend the marriage or domestic partnership solemnization ceremony only if he/she is housed at the facility where the wedding or ceremony is being held.

(4) Designated staff will notify the inmate and appropriate staff when arrangements for the marriage or domestic partnership solemnization ceremony have been finalized.

(5) No food, cameras, flowers, or special clothing may be brought into a Department of Corrections facility for inmate marriages or domestic partnership solemnization ceremonies.

(6) Inmates will be permitted to wear a plain wedding or domestic partner band, which shall be recorded on the inmate's personal property list.

(7) The applicant or prospective spouse or applicant's domestic partner will have the responsibility of contacting the clergy or other licensed person(s) to perform the marriage or solemnization ceremony.

(8) The schedule of marriages or domestic partnership solemnization ceremonies will be arranged by designated staff.

(9) The designated staff member will assure that appropriate reports are submitted.

Stat. Auth.: ORS 137.285, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.285, 179.040, 423.020, 423.030, 423.075 & 2007 OL Ch. 99 Hist.: CD 11-1993(Temp), f. 4-21-93, cert. ef. 4-26-93; CD 28-1993, f. 10-22-93, cert. ef. 10-23-93; DOC 8-2002, f. & cert. ef. 6-12-02; DOC 5-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 25-2008, f. & cert. ef. 9-26-08

291-133-0035

Inmate-to-Inmate Marriages and Domestic Partnership Solemnization Ceremonies

(1) An applicant satisfying the eligibility requirements of OAR 291-133-0015, except subsection (4)(d), may be permitted to marry another applicant who satisfies these requirements.

(2) All inmate-to-inmate marriages shall be conducted at the Coffee Creek Correctional Facility, except male death row status inmates, whose marriages which shall take place at the Oregon State Penitentiary (Penitentiary).

(3) For marriages, staff at Department facilities other than Coffee Creek Correctional Facility shall coordinate with staff at the Coffee Creek Correctional Facility at least four weeks in advance of the marriage ceremony date.

(4) For inmate-to-inmate domestic partnership solemnization ceremonies, staff will coordinate at least four weeks in advance of the solemnization ceremony to make arrangements for the ceremony.

(5) Transportation of applicants for inmate-to-inmate marriage and domestic partnership solemnization ceremonies will be coordinated through the Transport Unit.

Stat. Auth.: ORS 137.285, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.285, 179.040, 423.020, 423.030, 423.075 & 2007 OL Ch. 99 Hist.: CD 11-1993(Temp), f. 4-21-93, cert. ef. 4-26-93; CD 28-1993, f. 10-22-93, cert. ef. 10-23-93; DOC 8-2002, f. & cert. ef. 6-12-02; DOC 5-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 25-2008, f. & cert. ef. 9-26-08

ADMINISTRATIVE RULES

Rule Caption: Victim Services Program.

Adm. Order No.: DOC 26-2008

Filed with Sec. of State: 10-6-2008

Certified to be Effective: 10-6-08

Notice Publication Date: 6-1-2008

Rules Adopted: 291-205-0010, 291-205-0020, 291-205-0030, 291-205-0040, 291-205-0050, 291-205-0060, 291-205-0070, 291-205-0080, 291-205-0090, 291-205-0100, 291-205-0110

Subject: Adoption of these rules is necessary in order for the Department of Corrections to establish the Victim Services Program which includes a victim/inmate facilitated dialog program, and the policies and procedures for the conduct and administration of the program.

Rules Coordinator: Janet R. Worley — (503) 945-0933

291-205-0010

Authority, Purpose and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with ORS 179.040, 423.020, 423.030, and 423.075.

(2) Purpose: The purpose of this rule is to further the Department of Correction's mission, vision and core values by establishing policy and procedures for the operation and administration of the Department's Victim Services Program.

(3) Policy:

(a) The objective of the Department's Victim Services Program is to benefit and assist people who have been harmed by crime and to help inmates make amends or restitution for the harm caused by their crime.

(b) Within the inherent limitations of resources and the need to maintain facility security, safety, discipline, health and good order, it is the policy of the Department of Corrections to:

(A) Provide crime victims and survivors and concerned members of the general public with timely information about any changes in the incarceration status of Department inmates, including an inmate's physical release from a Department of Corrections facility, through the Victim Information and Notification Everyday Program (VINE);

(B) Permit victim-initiated facilitated dialogues between victims or survivors of serious and violent crimes and inmates in Department of Corrections facilities through the Facilitated Dialogue Program (FDP);

(C) Provide other general services to crime victims and survivors and to inmates who are working to make amends and restitution for their crimes through the Department's Victim Services Program; and

(D) Collaborate with other agencies, people, and community organizations to assist crime victims and survivors, and inmates.

(c) Facilitated dialogues can promote justice and healing for crime victims or survivors and aid inmates in the process of their rehabilitation. When authorized by the Administrator of Religious Services or designee within the Victim Services Program, a facilitated dialogue is permitted neither as a matter of right nor as a privilege of a crime victim or survivor or an inmate. Rather, a facilitated dialogue is permitted by the Administrator of Religious Services or designee, in his or her sole discretion, when he or she judges the facilitated dialogue may further the correctional goals and mission of the Department, and the healing process for crime victims or survivors. Such dialogues must always be consistent with the safe, secure, and orderly management and operation of the Department's correctional facilities.

(d) In order for the Facilitated Dialogue Program to be successful, all the participants must be able to speak openly and honestly about the crime and its impact, knowing that what they communicate will not be shared with other people or used against them later, except as required by law. Accordingly, it is the policy of the Department of Corrections to maintain all Facilitated Dialogue Program communications as confidential to the maximum extent permitted by law.

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

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

Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08

291-205-0020

Definitions

(1) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(2) Victim Services Advisory Committee: A group of community-based professionals and community members from the fields of mediation, restorative justice, psychology, victim services or other related fields and disciplines, selected by the Administrator of Religious Services or designee, who volunteer or otherwise provide their time and expertise to

advise and assist the Administrator or designee in the conduct of the Victim Services Program.

(3) Facilitated Dialogue Program Communications: FDP communications include, but are not limited to, all memoranda, work products, documents, records, phone calls, phone messages and other materials made in the course of or in connection with a facilitated dialogue process, to a facilitator, the Department of Corrections, a crime victim or survivor, an inmate, or any other person present. A Facilitated Dialogue Communication does not include a private written, audio, or other communication between a crime victim or survivor and an inmate that is transmitted through the FDP and that has been expressly authorized by the Administrator or designee. Disclosure of facilitated dialogue communications are governed by a Confidentiality Agreement entered into by the participants, facilitators, and the Department of Corrections, and by all applicable statutes, administrative rules and regulations, and Department of Corrections policies.

(4) Facilitated Dialogue Meeting: One or more meetings between a crime victim(s) or survivor(s) and an inmate(s) during which the crime victim(s) or survivor(s) and the inmate(s) have the opportunity to dialogue about the crime and its impact with the support of trained facilitators.

(5) Facilitated Dialogue Process: A facilitated dialogue relating to a specific crime victim or survivor, inmate, and serious and violent crime.

(a) A facilitated dialogue process begins with the first contact by a crime victim or survivor with the FDP staff expressing interest in participation in the program. The process includes assessments and screening of the crime victim or survivor and inmate and all contacts and communications between any program staff, advisory committee members or program volunteers and a victim or survivor or inmate.

(b) The facilitated dialogue process ends after the facilitated dialogue meeting and any post-dialogue contacts by the program staff or volunteers with the inmate and crime victim or survivor, or when a crime victim or survivor, inmate, or the program staff or advisory committee decides that the process is terminated.

(6) Facilitated Dialogue Program (FDP): A Department of Corrections program operating under the Victim Services Program that seeks to promote justice and healing for victims or survivors of serious and violent crimes and provide them with a safe and structured process to discuss the crime and its impact with the inmates that victimized them. The program also seeks to aid inmates in the process of their rehabilitation and as a way of increasing public safety. For the purposes of OAR 205-0010 to 205-0110 and unless specified otherwise, references to decisions, determinations or approvals of the Facilitated Dialogue Program shall mean a decision by the Administrator of Religious Services or his/her designee.

(7) Facilitator: A Department of Corrections volunteer or staff member who has had specific training in the facilitated dialogue program procedure and practices, and who has been trained and accepted by the Department as a volunteer, employee, or contractor to work in the FDP.

(8) Inmate: Any person under the supervision of Department of Corrections who is not on parole, post-prison supervision, or probation status.

(9) Support Person: A person or persons chosen by the crime victim or survivor or inmate, and approved by Facilitated Dialogue Program, to assist them during the facilitated dialogue process.

(10) Crime Victim or Survivor:

(a) Any person who was subjected to direct harm or injury from a crime for which an inmate has been convicted, past or present, and is identified as a victim or survivor in records or information available to the Department of Corrections.

(b) Any spouse, significant other, domestic partner, parent, grandparent, guardian, sibling, child or other immediate family member, or any member of the household, or any other person who was impacted by the consequences of an inmate's crime even though they were not directly or immediately harmed or injured by the inmate's criminal conduct.

(11) Victim Services Program Coordinator (VSPC): A Religious Services staff member designated by the Administrator of Religious Services who coordinates the Victim Services Program.

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

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

Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08

291-205-0030

Victim Services Advisory Committee

(1) The Victim Services Advisory Committee will operate under the direction of the Administrator of Religious Services or designee.

(2) The Advisory Committee will advise and assist the Administrator of Religious Services or designee with the recruitment, training, supervision and evaluation of FDP facilitators; the development and the administration of the FDP; the gathering of support and resources for the FDP; and other elements of the Victim Services Program.

(3) The Advisory Committee will also provide comment to the Administrator of Religious Services or designee regarding the

ADMINISTRATIVE RULES

Department's administrative rules governing the Victim Services Program, the FDP, and individual facilitated dialogue processes.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075
Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08

291-205-0040

General Components of the Victim Notification and Information Everyday (VINE) Program

(1) Crime victims and survivors and concerned members of the general public may request timely information about any changes in the incarceration status of Department inmates, including an inmate's physical release from a Department of Corrections facility, by registering to participate in the VINE program.

(2) The Victim Services Program Coordinator, in consultation with the Administrator of Religious Services will be responsible for coordinating and maintaining the VINE program.

(3) The Victim Services Program Coordinator may convene a meeting of VINE stakeholders at least once every two years to advise the Administrator of Religious Services or designee on issues relating to the operation of VINE.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075
Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08

291-205-0050

General Components of the Facilitated Dialogue Program

(1) Key principles or Components that Guide the FDP.

(a) Participation in a facilitated dialogue case is voluntary for both the crime victim or survivor and for the inmate. A facilitated dialogue process can only be initiated by a crime victim or survivor.

(b) Professionally trained facilitators with a background in related fields will conduct the facilitated dialogues; the facilitated dialogue process will be confidential, unless all parties agree in writing otherwise.

(c) Pre-dialogue preparation, including careful screening of parties to ensure safety and identify appropriate support networks, is a critical part of the facilitated dialogue process and can take months or even years to complete; post-dialogue follow-up is essential to a successful process and could include assistance in accessing appropriate aftercare and therapeutic support. On-going evaluation of the dialogue process, facilitators and overall program policies and procedures is critical to ensuring a quality process for the parties involved.

(2) Crime Victim or Survivor Requests and Initiates:

(a) A crime victim or survivor must request to participate in the Department of Corrections FDP. Such a request initiates the dialogue. Inmate requests for a facilitated dialogue will not be considered by the Department, except to the extent that they will be kept on file by the Department in the event that an inmate's crime victim or survivor contacts the program.

(b) Crime victim or survivor requests will be considered only in relation to those crimes for which the inmate has exhausted or elected not to pursue all appeals and other legal remedies that are available to challenge the validity of his or her conviction and prison sentence.

(3) Participation Voluntary: Participation in the FDP is completely voluntary by all participants. All participants in the program and process, the crime victim or survivor, inmate, support person, staff, or facilitators may suspend their participation in the program or in a particular facilitated dialogue process at any time for any reason.

(4) Upon Request Participants Must Consent to Disclosure of Medical/Mental Health Records:

(a) As a requirement of program participation, the crime victim or survivor and the inmate may be asked to consent in writing to the disclosure of their medical and psychological records and information related to their current psychological state, emotional strengths and weaknesses, predisposition to violence, including but not limited to any DSM-IV diagnoses, to any staff, program volunteers, or advisory committee members involved in their particular facilitated dialogue process. The information will be used only to evaluate the appropriateness of the crime victim or survivor's and the inmate's participation in the program.

(b) The crime victim or survivor or inmate may withdraw their consent in writing at any time in the facilitated dialogue process by delivering their written revocation to the staff or volunteers involved in conducting a program. Such a revocation by either the crime victim or survivor or the inmate will result in the immediate termination of the facilitated dialogue process. The Consent to Disclosure of Medical/Mental Health Records shall be limited in scope to the Facilitated Dialogue Program. The Consent to Disclosure of Medical/Mental Health Records shall automatically terminate upon termination of the Facilitated Dialogue Program.

(5) FDP Not a Replacement for Professional Counseling or Treatment: The Facilitated Dialogue Program is not designed to be a replacement for professional counseling or therapy for any of the participants. Participants are encouraged to consult with a professional counselor or therapist to address any personal emotional or mental health issues.

(6) Facilitated Dialogue Participation Agreements: As a requirement of program participation any crime victim, survivor, inmate, dialogue facilitators, support and other persons who will be involved in the dialogue process must enter into and agree to abide by the terms and conditions of program participation as set forth in a Participation Agreement and Facilitated Dialogue Confidentiality Agreement that will be prepared by the FDP.

(7) Suspension/Termination of a Facilitated Dialogue Process:

(a) All program staff and volunteers will immediately suspend a facilitated dialogue process upon a decision being made by the Administrator of Religious Services or his/her designee that there has been a violation or failure to abide by the Facilitated Dialogue Program rules or agreements for any reason by any participant

(b) If a facilitated dialogue process is suspended, the crime victim or survivor and the inmate are prohibited from contacting each other while the process is suspended without the prior express approval of the FDP

(c) Termination: The FDP may terminate a facilitated dialogue process, including a process that has been suspended, for any reason. The FDP decision is final, and not subject to further review by the crime victim or survivor or by the inmate.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075
Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08

291-205-0060

Participation of a Crime Victim or Survivor and their Support Person(s)

(1) Specific Conditions of Crime Victim or Survivor Participation: A crime victim or survivor who wishes to participate in the Facilitated Dialogue Program must:

(a) Act in "good faith" during the facilitated dialogue process, this means that participants will be honest with and respectful of one another and the guidelines of the program. Participants will accept and follow the facilitators' direction over the course of the process.

(b) Refrain from engaging in inappropriate personal relationships that go beyond the focus area or the purpose and function of the facilitated dialogue process with the participants or facilitators. Any conflict of interests with participants and facilitators that may exist or develop over the course of the dialogue process will be reported to the facilitator and the program coordinator.

(2) Crime Victim or Survivor Support Person: The FDP encourages, but does not require, that a crime victim or survivor participating in a facilitated dialogue process choose a support person. All support persons chosen by the crime victim or survivor will be required to disclose to the program the nature of the support person's relationship to the crime victim or survivor, and to the inmate, if any.

(3) Crime Victims or Survivors and Support Persons Subject to Department Rules: Facilitated dialogues take place inside Department of Corrections facilities. Consequently, the crime victim or survivor and support person(s) are and remain subject to all applicable Department rules and facility procedures pertaining to the public and visitors in Department of Corrections facilities, while participating in the Facilitated Dialogue Program, including but not limited to Mail (OAR 291-137), Visiting (291-127), Facility Access (291-016), and these rules.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075
Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08

291-205-0070

Participation of Inmate and their Support Person(s)

(1) Specific Conditions of Inmate Participation: An inmate who wishes to participate in the Facilitated Dialogue Program must:

(a) Consent to a psychiatric/mental health assessment for the purpose of evaluating their suitability to participate in a facilitated dialogue with the crime victim or survivor.

(b) Acknowledge guilt and take responsibility for his/her crime, and be willing to respond to the crime victim or survivor's needs, to the satisfaction of the program staff and volunteers.

(c) If an inmate is found in violation of any official misconduct during the dialogue process, the Administrator of Religious Services or designee, after consultation with the Program Coordinator and the Advisory Committee, may decide that the facilitated dialogue process should be suspended for a time or terminated.

ADMINISTRATIVE RULES

(d) Act in "good faith" during the facilitated dialogue process, and accept and follow the facilitators' direction over the course of the facilitated dialogue process.

(e) Refrain from engaging in inappropriate personal relationships with the participants or facilitators of a facilitated dialogue process.

(2) Inmate Participants Subject to Department Rules: Inmates remain subject to all applicable Department rules and facility procedures pertaining to inmates in Department of Corrections facilities, while participating in the Facilitated Dialogue Program, including but not limited to Mail (Inmate) (OAR 291-137), Visiting (291-127), Facility Access (291-016), and these rules.

(3) Sentence, Reward, or Status Gain from Participation: An inmate's participation in the Facilitated Dialogue Program will not affect the inmate's sentence or status within the correctional facility.

(a) Participation in the FDP will not be assigned or evaluated as part of the inmate's Corrections Plan for purposes of the Performance Recognition and Awards System (OAR 291-077) or any earned good time. However, at the voluntary request of an inmate, the inmate's counselor may assign them to work on the facilitated dialogue process as part of their Oregon Corrections Plan to help them reduce their risk of future offending upon release and learn how to live a more productive life.

(b) Inmates will not receive any benefit because of their participation in the FDP other than any benefits that are inherent to their participation.

(4) Inmate Support Person: The FDP encourages, but does not require, that an inmate participating in a facilitated dialogue process choose a support person. All support persons chosen by the inmate must be ODOC staff or ODOC volunteers and will be required to disclose to the program the nature of the support person's relationship to the inmate, if any.

(5) Inmate and Support Person(s) Subject to Department Rules: Facilitated dialogues take place inside Department of Corrections facilities. Consequently, the support person(s) are and remain subject to all applicable Department rules and facility procedures pertaining to the public and visitors in Department of Corrections facilities, while participating in the Facilitated Dialogue Program, including but not limited to Mail (Inmate) (OAR 291-137), Visiting (291-127), Facility Access (291-016), and these rules.

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

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

Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08

291-205-0080

Facilitator Participation

(1) Facilitator Qualification, Selection, Assignment, Supervision and Termination:

(a) The Administrator of Religious Services and his/her designee maintain sole discretion over the qualifications, selection, assignment and termination of dialogue facilitators who participate in the Facilitated Dialogue Program.

(b) The FDP staff will assign facilitators to a specific facilitated dialogue process as needed.

(c) The FDP will provide direction and supervision of all facilitators assigned to cases and instruction as to appropriate intervals for debriefings.

(d) The FDP staff may terminate a facilitator's participation in a specific facilitated dialogue process for any reason.

(2) Volunteer Requirements: Volunteer facilitators must meet the requirements for volunteer service in the rule on Volunteer Services/Student Interns (OAR 291-015). Facilitators must report any violation or failure to abide by the Facilitated Dialogue Program rules or agreements for any reason by any participant to the FDP.

(3) Inappropriate Relationships with Participants: Facilitators are prohibited from engaging in sexual or other inappropriate personal relationships with the participants of a Facilitated Dialogue Process.

(4) Legal Advice: Facilitators must not give legal advice to any crime victim or survivor or inmate.

(5) Facilitators Subject to Department Rules: Facilitated dialogues take place inside Department of Corrections facilities. Consequently, facilitators are and remain subject to all applicable Department rules and facility procedures pertaining to the public and visitors in Department of Corrections facilities, while participating in the Facilitated Dialogue Program, including but not limited to Volunteer Services/Student Interns (OAR 291-015), Mail (Inmate) (291-137), Visiting (291-127), Facility Access (291-016), and these rules.

(6) Training: Facilitators will attend any required training provided by the ODOC for process facilitators. Other training through other programs may provide support for applicants but will not automatically substitute for ODOC training. The FDP will offer on-going training and program updates that facilitators are expected to make every effort to attend.

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

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

Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08

291-205-0090

Intake Assessment

(1) Intake Evaluation: Upon receiving a crime victim or survivor's request to participate in the Facilitated Dialogue Program, the FDP will evaluate the request and determine whether the Facilitated Dialogue Program is appropriate for the crime victim or survivor and the inmate.

(2) Minimum Content of Evaluation: When conducting the intake assessment, the FDP through its staff or volunteers will, at a minimum, do the following:

(a) Interview the crime victim or survivor to describe the process, determine the nature of the crime, time elapsed since the crime, and other factors that address the past and present impacts of the crime on the crime victim or survivor and why the crime victim or survivor wants to participate in the Facilitated Dialogue Program. The interview is also used to explain the process to the crime victim or survivor.

(b) Contact appropriate staff at the institution in which the inmate is incarcerated to determine if the inmate is eligible to participate. Program staff or volunteers designated by the VSP will conduct a preliminary interview with the inmate.

(c) Provide the inmate and the crime victim or survivor with copies of the Confidentiality Agreement and Agreements to Participate. Execution of these agreements is necessary before the facilitated dialogue process will continue.

(3) FDP Decision Final: The decision whether to grant a crime victim or survivor's request to participate in the Facilitated Dialogue Program is committed to the discretion of the FDP. The FDP decision is final, and not subject to further review by the crime victim or survivor or by the inmate.

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

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

Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08

291-205-0100

Facilitated Dialogue Meeting

(1) Several Meetings Possible: A facilitated dialogue process may include one or more facilitated dialogue meetings. A facilitated dialogue meeting offers the crime victim or survivor and the inmate the opportunity to discuss the crime and its impacts.

(2) FDP Decision Final: The decision whether to hold a facilitated dialogue meeting is committed to the discretion of the FDP. The FDP decision is final, and not subject to further review by the crime victim or survivor or by the inmate.

(3) Facilitated Dialogue Meeting as Exception to General Department Prohibition Against Visits Between Inmates and their Crime Victims: When the FDP has authorized a facilitated dialogue meeting from a program perspective, the facility Superintendent or designee may, in his/her discretion, approve a special visit or visits between the crime victim or survivor and the inmate for the purpose of the facilitated dialogue meeting as an exception to the Department's general rule prohibiting visits between an inmate and his/her crime victim, OAR 291-127-0230.

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

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

Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08

291-205-0110

Post-Dialogue Process

(1) Post Meeting Contact: After the facilitated dialogue meeting, the facilitators will contact the crime victim or survivor and the inmate to discuss the meeting and evaluate the process. The contacts should take place within 72 hours after the facilitated dialogue meeting and thereafter as approved by the FDP.

(2) Post Meeting Report: After the facilitated dialogue meeting, the facilitators will report to the FDP and the FDP will evaluate the facilitated dialogue process.

(3) Conclusion of Dialogue Process: Upon conclusion of the post-dialogue contacts, the facilitated dialogue process is terminated.

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

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

Hist.: DOC 12-2008(Temp). F. & cert. ef. 5-15-08 thru 11-10-08; DOC 26-2008, f. & cert. ef. 10-6-08

Department of Environmental Quality Chapter 340

Rule Caption: Authorizing the Environmental Quality Commission to implement the Clean Air Act requirements for agriculture in Oregon.

ADMINISTRATIVE RULES

Adm. Order No.: DEQ 12-2008
Filed with Sec. of State: 9-17-2008
Certified to be Effective: 9-17-08
Notice Publication Date: 5-1-2008

Rules Amended: 340-200-0030, 340-200-0040, 340-210-0205, 340-264-0040

Subject: This rulemaking amends the above OARs, in accordance with ORS 468A.020, to allow the Environmental Quality Commission (EQC) to limit emissions from agricultural sources of needed to meet federal CAA requirements, such as National Ambient Air Quality Standards (NAAQS), federal air toxic requirements, or regional haze issues. This rulemaking also amends Oregon's State Implementation Plan.

Rules Coordinator: Larry McAllister—(503) 229-6412

340-200-0030

Exceptions

(1) Except as provided in section (2) of this rule, OAR Chapter 340, divisions 200 through 268 do not apply to:

(a) Agricultural operations, including but not limited to:

- (A) Growing or harvesting crops;
- (B) Raising fowl or animals;
- (C) Clearing or grading agricultural land;
- (D) Propagating and raising nursery stock;
- (E) Propane flaming of mint stubble; and
- (F) Stack or pile burning of residue from Christmas trees, as defined in ORS 571.505, during the period beginning October 1 and ending May 31 of the following year.

(b) Equipment used in agricultural operations, except boilers used in connection with propagating and raising nursery stock.

(c) Barbecue equipment used in connection with any residence.

(d) Heating equipment in or used in connection with residences used exclusively as dwellings for not more than four families, except woodstoves which shall be subject to regulation under this section, ORS 468A.460 to 468A.480, 468A.490 and 468A.515.

(e) Fires set or permitted by any public agency when such fire is set or permitted in the performance of its official duty for the purpose of weed abatement, prevention or elimination of a fire hazard, or instruction of employees in the methods of fire fighting, which in the opinion of the agency is necessary.

(f) Fires set pursuant to permit for the purpose of instruction of employees of private industrial concerns in methods of fire fighting, or for civil defense instruction.

(2) Section (1) of this rule does not apply to the extent:

(a) Otherwise provided in ORS 468A.555 to 468A.620, 468A.790, 468A.992, 476.380 and 478.960;

(b) Necessary to implement the federal Clean Air Act (P.L. 88-206 as amended) under ORS 468A.025, 468A.030, 468A.035, 468A.040, 468A.045 and 468A.300 to 468A.330; or

(c) Necessary for the Environmental Quality Commission, in the commission's discretion, to implement a recommendation of the Task Force on Dairy Air Quality created under section 3, chapter 799, Oregon Laws 2007, for the regulation of dairy air contaminant emissions.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as Adopted by the Environmental Quality Commission under OAR 340-200-0040.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.025

Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0003; DEQ 12-2008, f. & cert. ef. 9-17-08

340-200-0040

State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by the Department of Environmental Quality and is adopted as the state implementation plan (SIP) of the State of Oregon pursuant to the federal Clean Air Act, 42 U.S.C.A 7401 to 7671q.

(2) Except as provided in section (3), revisions to the SIP will be made pursuant to the Commission's rulemaking procedures in division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the United States Environmental Protection Agency for approval. The State Implementation Plan was last modified by the Commission on August 21, 2008.

(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. & 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

340-210-0205

Applicability

(1) Except as provided in section (2) of this rule, OAR 340-210-0200 through 340-210-0250 apply to

(a) All stationary sources; and

(b) All air pollution control equipment used to comply with emissions limits or used to avoid Oregon Title V Operating Permits (OAR 340 division 218) or New Source Review (OAR 340 division 224) requirements, or MACT standards (OAR 340 division 244).

(2) OAR 340-210-0200 through 340-210-0250 do not apply to the following stationary sources:

(a) Agricultural operations or equipment that is exempted by OAR 340-200-030

(b) Heating equipment in or used in connection with residences used exclusively as dwellings for not more than four families;

(c) Other activities associated with residences used exclusively as dwellings for not more than four families, including, but not limit to barbecues, house painting, maintenance, and groundskeeping; and

(d) Categorically insignificant activities as defined in OAR 340-200-0020 that are not subject to NESHAP or NSPS requirements. This exemption applies to all categorically insignificant activities whether or not they are located at major or non-major sources.

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 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0025; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0810; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-210-0210; DEQ 12-2008, f. & cert. ef. 9-17-08

ADMINISTRATIVE RULES

340-264-0040

Exemptions, Statewide

Except for the provisions contained in OAR 340-264-0050 and 340-264-0060, this Division does not apply to:

- (1) Recreational fires and ceremonial fires, for which a fire is appropriate.
- (2) Barbecue equipment used in connection with any residence
- (3) Fires set or permitted by any public agency when such fire is set or permitted in the performance of its official duty for the purpose of weed abatement, prevention or elimination of a fire hazard, or a hazard to public health or safety, or for instruction of employees in the methods of fire fighting, which in the opinion of the public agency is necessary. Open burning fires otherwise exempt from the requirements of this division are still subject to the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (4) Agricultural open burning pursuant to ORS 468A.020. Agricultural open burning is still subject to the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (5) Open field burning, propane flaming, and stack and pile burning in the Willamette Valley between the crests of the Cascade and Coast Ranges pursuant to OAR chapter 340, division 266, Rules for Field Burning.
- (6) Slash burning on forest land or within one-eighth mile of forest land permitted under the Oregon Smoke Management Program regulated by the Department of Forestry pursuant to ORS 477.515.
- (7) Fires set pursuant to permit for the purpose of instruction of employees of private industrial concerns in methods of fire fighting, or for civil defense instruction.
- (8) Fires set for the purpose of disposal of dry tumbleweed plants (typically Russian Thistle and Tumbleweed Mustard plants) that have been broken off, and rolled about, by the wind.
- (9) Agricultural burning for disease or pest control when the fire is set or authorized in writing by the Department of Agriculture.
- (10) When caused by an authorized representative of the Department of Agriculture, open burning of carcasses of animals that have died or been destroyed because of an animal disease emergency.

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 & 477

Stats. Implemented: ORS 468A.555

Hist.: DEQ 123, f. & ef. 10-20-76; DEQ 23-1979, f. & ef. 7-5-79; DEQ 27-1981, f. & ef. 9-8-81; DEQ 10-1984, f. 5-29-84, ef. 6-16-84; DEQ 6-1992, f. & cert. ef. 3-11-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-023-0035; DEQ 21-2000, f. & cert. ef. 12-15-00; DEQ 12-2008, f. & cert. ef. 9-17-08

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Department of Fish and Wildlife Chapter 635

Rule Caption: Pacific halibut all-depth sport fishery re-opens from Cape Falcon to Humbug Mt.

Adm. Order No.: DFW 111-2008(Temp)

Filed with Sec. of State: 9-16-2008

Certified to be Effective: 9-16-08 thru 12-31-08

Notice Publication Date:

Rules Amended: 635-039-0085

Rules Suspended: 635-039-0085(T)

Subject: Amended rule re-opens the Pacific sport halibut all-depth fishery in the area between Cape Falcon and Humbug Mt. effective 12:01 a.m. Saturday, September 20 through 11:59 p.m. Sunday, September 21, 2008 with a daily bag limit of two fish. Revisions are consistent with regulations implemented by the federal government and the International Pacific Halibut Commission for the 2008 Oregon recreational fishery for Pacific halibut.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-039-0085

Halibut Seasons

(1) The Pacific halibut sport fishery in Oregon is regulated by the federal government and the International Pacific Halibut Commission (IPHC). OAR chapter 635, division 039 incorporates into Oregon Administrative Rules, by reference, modifications or additions to provisions determined by the IPHC and to the extent they are consistent with Title 50 of the Code of Federal Regulations, Part 300, Subpart E (61FR35550, July 5, 1996) Volume 73, Number 46, dated March 7, 2008 and as amended by Federal Regulations.

(2) Effective 11:59 p.m., Sunday August 2, 2008 the Columbia River sub-area (Cape Falcon, OR to Leadbetter Pt., WA) is closed to the retention of Pacific halibut.

(3) Effective 12:01 a.m. Friday, August 22 through 11:59 p.m. Saturday, August 23, 2008 the Columbia River sub-area (Cape Falcon, OR to Leadbetter Pt., WA) re-opens to the retention of Pacific halibut.

(4) Effective 12:01 a.m. Friday, August 29 through 11:59 p.m. Friday, August 29, 2008 the Columbia River sub-area (Cape Falcon, OR to Leadbetter Pt., WA) re-opens to the retention of Pacific halibut.

(5) Effective 11:59 p.m. Sunday, September 7, 2008 the area between Cape Falcon and Humbug Mountain, Oregon is closed to the retention of Pacific halibut.

(6) Effective 12:01 a.m. Saturday, September 13, 2008 through 11:59 p.m. Sunday, September 14, 2008 the area between Cape Falcon and Humbug Mountain, Oregon, re-opens to the retention of Pacific halibut with a daily bag limit of two fish.

(7) Effective 12:01 a.m. Saturday, September 20, 2008 through 11:59 p.m. Sunday, September 21, 2008 the area between Cape Falcon and Humbug Mountain, Oregon, re-opens to the retention of Pacific halibut with a daily bag limit of two fish.

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

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 89-2005(Temp), f. & cert. ef. 8-12-05 thru 12-12-05; DFW 107-2005(Temp), f. 9-14-05, cert. ef. 9-15-05 thru 10-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-19-06; DFW 34-2006(Temp), f. 5-25-06, cert. ef. 5-27-06 thru 8-3-06; Administrative correction 8-22-06; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 35-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 8-2-07; DFW 67-2007(Temp), f. 8-9-07, cert. ef. 8-12-07 thru 9-30-07; DFW 76-2007(Temp), f. 8-17-07, cert. ef. 8-24-07 thru 9-30-07; DFW 84-2007(Temp), f. 9-5-07, cert. ef. 9-15-07 thru 9-30-07; DFW 87-2007(Temp), f. 9-10-07, cert. ef. 9-14-07 thru 10-28-07; DFW 90-2007(Temp), f. 9-19-07, cert. ef. 9-20-07 thru 10-31-07; Administrative correction 11-17-07; DFW 57-2008(Temp), f. 5-30-08, cert. ef. 6-1-08 thru 7-31-08; DFW 81-2008(Temp), f. 7-11-08, cert. ef. 8-2-08 thru 9-30-08; DFW 92-2008(Temp), f. & cert. ef. 8-11-08 thru 9-30-08; DFW 101-2008(Temp), f. 8-25-08, cert. ef. 8-29-08 thru 9-30-08; DFW 107-2008(Temp), f. 9-5-08, cert. ef. 9-7-08 thru 12-31-08; DFW 111-2008(Temp), f. & cert. ef. 9-16-08 thru 12-31-08

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Rule Caption: Treaty Indian Fall Salmon Season In the Columbia River and Tributaries Extended.

Adm. Order No.: DFW 112-2008(Temp)

Filed with Sec. of State: 9-17-2008

Certified to be Effective: 9-18-08 thru 10-31-08

Notice Publication Date:

Rules Amended: 635-041-0075

Rules Suspended: 635-041-0075(T)

Subject: Amended rule extends the Tribal Indian fall commercial gill net salmon season in the Columbia River and tributaries with an additional 24-hour fishing period from 6:00 p.m. Thursday, September 18 through 6:00 p.m. Friday, September 19, 2008. Modifications are consistent with action taken September 16, 2008 by the Columbia River Compact agencies of Oregon and Washington in concert with the Columbia River Inter-Tribal Fish Commission.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0075

Fall Salmon Season

(1) Chinook, coho, sockeye, steelhead, walleye, carp, and shad may be taken by gill net for commercial purposes from the mainstem Columbia River, Zone 6 during the following periods:

6:00 a.m. Tuesday, September 9 through 6:00 p.m. Friday, September 12, 2008 (84 hours);

6:00 a.m. Tuesday, September 16 through 6:00 p.m. Friday, September 19, 2008 (84 hours).

(a) An 8-inch minimum mesh size restriction is in effect.

(b) Allowable sales include Chinook, coho, sockeye, steelhead, walleye, carp, and shad.

(c) Sturgeon may not be sold. However, white sturgeon between 48 and 60 inches in length taken from The Dalles and John Day pools may be kept for subsistence use. White sturgeon between 42 and 60 inches in length taken from the Bonneville Pool may be kept for subsistence use. White sturgeon caught in subsistence fisheries downstream of Bonneville Dam must be released immediately unharmed.

(d) Closed areas are set forth in OAR 635-041-0045, including the closure at the mouth of Spring Creek are in effect.

(2) Sales of fish caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake/Little White Salmon River; and Big White Salmon River, including the Yakama Nation subsistence fishery on the Washington shore downstream of Bonneville Dam, are allowed during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods, subject to restrictions as specified in section 1 above.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

ADMINISTRATIVE RULES

Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982(Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984(Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988(Temp), f. & cert. ef. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 96-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989(Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. & cert. ef. 8-7-90, cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. & cert. ef. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. & cert. ef. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. & cert. ef. 8-7-91, cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. & cert. ef. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. & cert. ef. 9-2-92; FWC 87-1992(Temp), f. & cert. ef. 9-7-92; FWC 91-1992(Temp), f. & cert. ef. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. & cert. ef. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. & cert. ef. 10-2-92, cert. ef. 10-5-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. & cert. ef. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. & cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. & cert. ef. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. & cert. ef. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. & cert. ef. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. & cert. ef. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. & cert. ef. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. & cert. ef. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 58-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. & cert. ef. 8-29-97, cert. ef. 9-2-97; FWC 57-1997(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. & cert. ef. 9-16-97, cert. ef. 9-17-97; FWC 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. & cert. ef. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. & cert. ef. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. & cert. ef. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. & cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. & cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. & cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. & cert. ef. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. ef. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. & cert. ef. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. & cert. ef. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. & cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. & cert. ef. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. & cert. ef. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. & cert. ef. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. & cert. ef. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. & cert. ef. 9-12-03, cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. & cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. & cert. ef. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. & cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. & cert. ef. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. & cert. ef. 10-12-04, cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 71-2006(Temp), f. & cert. ef. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. & cert. ef. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. & cert. ef. 9-11-06 thru 12-31-06; DFW 101-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 107-2006(Temp), f. & cert. ef. 9-28-06, cert. ef. 10-3-06 thru 12-31-06; DFW 115-2006(Temp), f. & cert. ef. 10-13-06, cert. ef. 10-15-06 thru 12-31-06; Administrative correction 1-16-07; DFW 60-2007(Temp), f. & cert. ef. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; DFW 77-2007(Temp), f. & cert. ef. 8-17-07, cert. ef. 8-22-07 thru 12-31-07; DFW 88-2007(Temp), f. & cert. ef. 9-10-07, cert. ef. 9-11-07 thru 12-31-07; DFW 95-2007(Temp), f. & cert. ef. 9-25-07 thru 12-31-07; DFW 100-2007(Temp), f. & cert. ef. 9-28-07, cert. ef. 10-3-07 thru 12-31-07; DFW 110-2007(Temp), f. & cert. ef. 10-16-07, cert. ef. 10-20-07 thru 12-31-07; DFW 106-2008(Temp), f. & cert. ef. 9-4-08, cert. ef. 9-6-08 thru 10-31-08; DFW 109-2008(Temp), f. & cert. ef. 9-12-08, cert. ef. 9-15-08 thru 10-31-08; DFW 112-2008(Temp), f. & cert. ef. 9-17-08, cert. ef. 9-18-08 thru 10-31-08

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Rule Caption: Late Fall Commercial Chinook Salmon Gill Net Season Opens in Mainstem Columbia River.

Adm. Order No.: DFW 113-2008(Temp)

Filed with Sec. of State: 9-17-2008

Certified to be Effective: 9-18-08 thru 12-31-08

Notice Publication Date:

Rules Amended: 635-042-0060

Subject: Amended rule sets seasons in the Columbia River for the commercial harvest, retention and sales of Chinook salmon and white sturgeon in Zones 1-5 beginning September 18, 2008. The proposed

seasons provide opportunity for the commercial gill net fleet to harvest part of their pre-season allocation. Revisions are consistent with action taken September 16, 2008 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0060

Late Fall Salmon Season

(1) Salmon and white sturgeon may be taken by gill nets for commercial purposes from the Columbia River during the open fishing periods and areas identified in sections (2) through (8) below. Retention of green sturgeon is prohibited.

(a) In sections (2), (3), (4) and (6) below: Elokomin-B, Abernathy, Cowlitz, Kalama-B, Lewis-B*, Sandy and Washougal river sanctuaries are in effect. *Lewis-B includes all of the area from the upper boundary of the Lewis-B sanctuary downstream to a line projected from the red navigation Marker 62 at the head of Deer Island, Oregon, across to the green navigation Marker 63 at Martin Island, Washington.

(b) In sections (5), (7) and (8) below: Lewis-B*, Sandy and Washougal river sanctuaries are in effect. *Lewis-B includes all of the area from the upper boundary of the Lewis-B sanctuary downstream to a line projected from the red navigation Marker 62 at the head of Deer Island, Oregon, across to the green navigation Marker 63 at Martin Island, Washington.

(c) In sections (2) through (8) below: a maximum of ten white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) and the weekly aggregate white sturgeon limit applies to possession and sales in the Columbia River mainstem only. The Columbia River Select Areas are currently closed to the retention of white sturgeon.

(d) In sections (3) through (8) below: 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 0.375-inches or greater.

(2) From 7:00 a.m. to 7:00 p.m. (12 hours) Thursday, September 18, 2008 in Zones 1-5.

(a) Gear is restricted to gill nets with a 9-inch minimum and 9.75-inch maximum mesh size.

(3) From 7:00 p.m. Sunday, September 21 to 7:00 a.m. Monday, September 22, 2008 (12 hours) in Zones 1-5.

(a) Gear is restricted to gill nets with a 8-inch minimum and 9.75-inch maximum mesh size.

(4) From 9:00 p.m. Tuesday, September 23 to 7:00 a.m. Wednesday, September 24, 2008 (10 hours) in Zones 4-5.

(a) Gear is restricted to gill nets with a 8-inch minimum and 9.75-inch maximum mesh size.

(5) From 7:00 p.m. Wednesday, September 24 to 7:00 a.m. Thursday, September 25, 2008 (12 hours) in Zones 4-5.

(a) Gear is restricted to gill nets with a 8-inch minimum mesh size.

(6) From 7:00 a.m. to 7:00 p.m. (12 hours) Thursday, September 25, 2008 in Zones 1-5.

(a) Gear is restricted to gill nets with a 9-inch minimum and 9.75-inch maximum mesh size.

(7) From 7:00 p.m. Thursday, September 25 to 7:00 a.m. Friday, September 26, 2008 (12 hours) in Zones 4-5.

(a) Gear is restricted to gill nets with a 8-inch minimum mesh size.

(8) Nightly from 7:00 p.m. to 7:00 a.m. (12 hours) beginning Sunday, September 28 through Thursday, October 3, 2008 in Zones 4-5.

(a) Gear is restricted to gill nets with a 8-inch minimum mesh size.

Stat. Auth.: ORS 496.118, 506.109

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 40-1979, f. & ef. 9-10-79; FWC 45-1979(Temp), f. & ef. 9-21-79; FWC 52-1979(Temp), f. & ef. 11-2-79; FWC 48-1980(Temp), f. & ef. 9-19-80; FWC 51-1980(Temp), f. & ef. 9-22-80; FWC 55-1980(Temp), f. & ef. 9-26-80; FWC 56-1980(Temp), f. & ef. 9-29-80; FWC 58-1980(Temp), f. & ef. 10-17-80; FWC 37-1981(Temp), f. & ef. 9-24-81; FWC 38-1981(Temp), f. & ef. 9-29-81; FWC 69-1982(Temp), f. & ef. 9-30-82; FWC 72-1982(Temp), f. & ef. 10-20-82; FWC 56-1983(Temp), f. & ef. 10-5-83; FWC 54-1984(Temp), f. & ef. 9-10-84; FWC 59-1984(Temp), f. & ef. 9-18-84; FWC 66-1984(Temp), f. & ef. 9-26-84; FWC 68-1984(Temp), f. & ef. 10-2-84; FWC 58-1985(Temp), f. & ef. 9-13-85; FWC 62-1985(Temp), f. & ef. 9-24-85; FWC 66-1985(Temp), f. & ef. 10-11-85; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 64-1986(Temp), f. & ef. 10-3-86; FWC 67-1986(Temp), f. & ef. 10-17-86; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-11-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 91-1987(Temp), f. & ef. 10-16-87; FWC 85-1988(Temp), f. & cert. ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 10-7-88; FWC 100-1988(Temp), f. & cert. ef. 10-21-88, cert. ef. 10-24-88; FWC 94-1989(Temp), f. & cert. ef. 9-15-89, cert. ef. 9-17-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989(Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. & cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 10-8-90; FWC 105-1991, f. & cert. ef. 9-20-91; FWC 118-1991, f. & cert. ef. 10-4-91; FWC 122-1991(Temp), f. & cert. ef. 10-18-91; FWC 129-1991(Temp), f. & cert. ef. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-

ADMINISTRATIVE RULES

22-92; FWC 100-1992(Temp), f. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 109-1992(Temp), f. 10-19-92, cert. ef. 10-20-92; FWC 110-1992(Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC 64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-1997(Temp), f. & cert. ef. 11-3-97; FWC 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. 10-26-99, cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106-2002(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp), f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. 9-12-03, cert. ef. 9-15-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. 10-10-03, cert. ef. 10-12-03 thru 12-31-03; DFW 107-2003(Temp), f. 10-21-03, cert. ef. 10-26-03 thru 12-31-03; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 98-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 101-2004(Temp), f. & cert. ef. 9-29-04 thru 12-31-04; DFW 102-2004(Temp), f. 10-1-04, cert. ef. 10-4-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; Administrative correction, 2-18-05; 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 113-2005(Temp), f. & cert. ef. 9-28-05 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; DFW 126-2005(Temp), f. 10-21-05, cert. ef. 10-23-05 thru 12-31-05; Administrative correction 1-19-06; DFW 102-2006(Temp), f. 9-15-06, cert. ef. 9-19-06 thru 12-31-06; DFW 106-2006(Temp), f. 9-22-06, cert. ef. 9-25-06 thru 12-31-06; DFW 111-2006(Temp), f. 9-29-06, cert. ef. 10-2-06 thru 12-31-06; DFW 112-2006(Temp), f. 10-4-06, cert. ef. 10-8-06 thru 12-31-06; DFW 114-2006(Temp), f. & cert. ef. 10-12-06 thru 12-31-06; DFW 120-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 91-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 94-2007(Temp), f. 9-21-07, cert. ef. 9-24-07 thru 12-31-07; DFW 97-2007(Temp), f. 9-25-07, cert. ef. 9-26-07 thru 12-31-07; DFW 98-2007(Temp), f. 9-26-07, cert. ef. 9-27-07 thru 12-31-07; DFW 99-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 104-2007(Temp), f. & cert. ef. 10-3-07 thru 12-31-07; DFW 107-2007(Temp), f. & cert. ef. 10-10-07 thru 12-31-07; DFW 109-2007(Temp), f. 10-16-07, cert. ef. 10-17-07 thru 12-31-07; DFW 111-2007(Temp), f. 10-22-07, cert. ef. 10-23-07 thru 12-31-07; DFW 112-2007(Temp), f. 10-24-07, cert. ef. 10-25-07 thru 12-31-07; DFW 113-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 12-31-08

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Rule Caption: Review, update and amend Fish and Wildlife Integrity Rules.

Adm. Order No.: DFW 114-2008

Filed with Sec. of State: 9-19-2008

Certified to be Effective: 9-19-08

Notice Publication Date: 8-1-2008

Rules Amended: 635-056-0000, 635-056-0050, 635-056-0070, 635-056-0075

Subject: These amendments update the scientific names, common names, and literature references in the Wildlife Integrity Rules and expand the list of controlled species to include tilapia, giant river prawns, and whiteleg shrimp.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-056-0000

Purpose and General Information

(1) The purpose of these rules is to protect Oregon's native wildlife. These rules aim for this goal by regulating human actions involving nonnative wildlife (whether those actions involve trade in nonnative wildlife or involve interaction with nonnative species in the wild). The rules allow private use or ownership of nonnative species to the extent that they do not pose a significant risk of harm to native species.

(2) Scientific taxonomic nomenclature and common names reflect the following:

(a) Mammals — “Walker’s Mammals of the World”, 6th Edition, R. M. Nowak, 1999.

(b) Amphibians and Reptiles — “A Complete Guide to Scientific and Common Names of Reptiles and Amphibians of the World”, N. Frank and E. Ramus, 1996.

(c) Birds — “Birds of the World: A Checklist”, J. F. Clements, 1991.

(d) Fish (except subfamily Serrisalminae) — “Common and Scientific Names of Fishes from the United States, Canada, and Mexico”, 6th Edition, American Fisheries Society Special Publication 29, J. S. Nelson et al., 2004. Subfamily Serrisalminae: “World Fishes Important to North Americans”, American Fisheries Society Special Publication 21, C. R. Robins et al., 1991.

(e) Mollusks — “Common and Scientific Names of Aquatic Invertebrates from the United States and Canada: Mollusks”, 2nd Edition,

American Fisheries Society Special Publication 26, D. D. Turgeon et al., 1998.

(f) Crustaceans (except whiteleg shrimp) — “Common and Scientific Names of Aquatic Invertebrates from the United States and Canada: Crustaceans”, American Fisheries Society Special Publication 31, P. A. McLaughlin et al., 2005. Whiteleg shrimp: “Shrimps and Prawns of the World: An Annotated Catalogue of Species of Interest to Fisheries”, Food and Agriculture Organization Fisheries Synopsis no. 125, vol. 1, L. B. Holthius, 1980.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; FWC 59-1997, f. & cert. ef. 9-3-97; DFW 99-1998, f. & cert. ef. 12-22-98; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 79-2000, f. & cert. ef. 12-22-00; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 114-2008, f. & cert. ef. 9-19-08

635-056-0050

Prohibited Species

(1) Except as otherwise provided in these rules or other rules of the commission, live wildlife listed below may not be imported, possessed, sold, purchased, exchanged or transported in the state:

(a) Prohibited Mammals: Common Name — Family — Genus/species:

(A) Order Didelphimorphia Virginia opossum — Didelphidae — *Didelphis virginiana*.

(B) Order Dasyuromorphia

(i) Broad-footed marsupial mice — Dasyuridae — *Antechinus* All species and hybrids;

(ii) Brush-tailed marsupial mice — Dasyuridae — *Phascogale* All species and hybrids;

(iii) Narrow-footed marsupial mice — Dasyuridae — *Sminthopsis* All species and hybrids.

(C) Order Diprotodontia

(i) Brush-tailed possum — Phalangeridae — *Trichosurus vulpecula*;

(ii) Ring-tailed possum — Pseudocheiridae — *Pseudocheirus peregrinus*.

(D) Order Xenarthra Nine-banded armadillo — Dasypodidae — *Dasypus novemcinctus*.

(E) Order Insectivora Eurasian hedgehogs — Erinaceidae — *Erinaceus europaeus*, *E. concolor*, *E. amurensis*.

(F) Order Chiroptera Bats — All families except *Pteropodidae* — All species and hybrids.

(G) Order Carnivora

(i) Wild canids — Canidae — All native species. However, fox (*Vulpes vulpes* and *Urocyon cinereoargenteus*) are exempt from this prohibition if when part of a commercial fur farming operation or for wildlife rehabilitation purposes by a licensed wildlife rehabilitator;

(ii) Mongooses — *Herpestidae* — All species and hybrids;

(iii) Civets and Genets — *Viverridae* — All species and hybrids (except *Arctictis binturong*).

(H) Order Artiodactyla

(i) Sheep, Goats, Chamois, Tahr — Bovidae — Subfamily Caprinae; All species and hybrids except:

(I) *Capra hircus*;

(II) *Ovis aries*;

(III) hybrids of *Ovis aries* with *O. musimon*; hybrids of *O. aries* with *Ammotragus lervia*; and hybrids of *O. aries* with *Pseudois nayaur*;

(ii) Wildebeest — Bovidae — *Connochaetes* All species and hybrids;

(iii) Central Asian gazelles — Bovidae — *Procapra* All species and hybrids;

(iv) Wild boar — Suidae — *Sus scrofa* (except *Sus scrofa domestica*).

(I) Order Rodentia

(i) Plains viscacha — Chinchillidae — *Lagostomus maximus*;

(ii) Chinese jumping mouse — Dipodidae — *Eozapus setchuanus*;

(iii) Desert jerboas — Dipodidae — *Jaculus* All species and hybrids;

(iv) Kangaroo Rats — Heteromyidae — *Dipodomys* All nonnative species except *D. deserti* and *D. spectabilis*;

(v) Kangaroo Mouse — Heteromyidae — *Microdipodops pallidus*;

(vi) Silky pocket mice — Heteromyidae — *Perognathus* All nonnative species and hybrids;

(vii) Capybara — Hydrochaeridae — *Hydrochaeris hydrochaeris*;

(viii) Old world porcupines — Hystricidae — *Hystrix africaeaus-tralis*, *H. cristata*, and *H. indica*;

(ix) Mouselike hamster — Muridae — *Calomyscus* All species and hybrids;

(x) Ratlike hamsters — Muridae — *Cricetulus* All species and hybrids;

(xi) Black-bellied hamster — Muridae — *Cricetus cricetus*;

(xii) Bushy-tailed jird — Muridae — *Sekeetamys calurus*;

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- (xiii) Nutria — Myocastoridae — *Myocastor coypus*;
- (xiv) Edible dormouse — Myoxidae — *Myoxus glis*;
- (xv) Common dormouse — Myoxidae — *Muscardinus avellanarius*;
- (xvi) Antelope ground squirrels — Sciuridae — Ammospermophilus All nonnative species and hybrids except *A. harrisi*;
- (xvii) Tricolored squirrels — Sciuridae — *Callosciurus* All species and hybrids except *C. prevostii*;
- (xviii) Prairie dogs — Sciuridae — *Cynomys* All species and hybrids;
- (xix) Southern flying squirrel — *Sciuridae* — *Glaucomys volans*;
- (xx) Marmots — Sciuridae — *Marmota* All nonnative species and hybrids;
- (xxi) Giant flying squirrel — Sciuridae — *Petaurista* All species and hybrids;
- (xxii) Eastern gray squirrel — Sciuridae — *Sciurus carolinensis*;
- (xxiii) Fox squirrel — Sciuridae — *Sciurus niger*;
- (xxiv) European red squirrel — Sciuridae — *Sciurus vulgaris*;
- (xxv) Ground squirrels — Sciuridae — *Spermophilus* All nonnative species and hybrids except *S. adocetus*, *S. annulatus*, *S. atricapillus*, *S. madrensis*, *S. mexicanus*, *S. mohavensis*, *S. perotensis*, and *S. tereticaudus*;
- (xxvi) Chipmunks — Sciuridae — *Tamias* All nonnative species and hybrids.
- (xxvii) African ground squirrels — Sciuridae — *Xerus* All species and hybrids;
- (J) Order Lagomorpha
 - (i) Hares and Jackrabbits — Leporidae — *Lepus* All nonnative species and hybrids;
 - (ii) Cottontails — Leporidae — *Sylvilagus* All nonnative species and hybrids.
- (b) Prohibited Birds: Common Name — Family — Genus/species:
 - (A) Order Anseriformes Egyptian Goose — Anatidae — *Alopochen aegyptiacus*.
 - (B) Order Charadriiformes Spotted thick-knee — Burhinidae — *Burhinus capensis*.
 - (C) Order Coraciiformes
 - (i) Malachite kingfisher — Alcedinidae — *Alcedo cristata*;
 - (ii) Laughing kookaburra — Alcedinidae — *Dacelo novaeguineae*.
 - (D) Order Passeriformes
 - (i) Yellowhammer — Emberizidae — *Emberiza citrinella*;
 - (ii) European greenfinch — Fringillidae — *Carduelis chloris*;
 - (iii) Chaffinch — Fringillidae — *Fringilla coelops*.
 - (c) Prohibited Fish: Common Name — Family — Genus/species:
 - (A) Order Amiiformes Bowfin — Amiiidae — *Amia calva*.
 - (B) Order Cypriniformes
 - (i) Piranha or Caribe — Characidae subfamily Serrasalminae — All species and hybrids except *Serrasalmus*, *Pygocentrus* and *Pristobrycon* pursuant to ORS 498.242 and OAR 635-011-0160(2);
 - (ii) Walking catfish (ORS 498.242) — Clariidae — All species and hybrids;
 - (iii) Oriental weatherfish — Cobitidae — *Misgurnus anguillicaudatus*;
 - (iv) Ide — Cyprinidae — *Leuciscus idus*;
 - (v) Rudd — Cyprinidae — *Scardinius erythrophthalmus*.
 - (C) Order Lepisosteiformes
 - Gar — Lepisosteidae — All species and hybrids.
 - (D) Order Perciformes
 - (i) Snakehead — Channidae — *Channa* All species and hybrids;
 - (ii) Round Goby — Gobiidae — *Neogobius melanostomus*;
 - (iii) Ruffe — Percidae — *Gymnocephalus cernuus*;
 - (iv) Zander or Pike-perch — Percidae — *Sander lucioperca*.
 - (E) Order Salmoniformes Pikes, Pickerel — Esocidae — All species and hybrids.
 - (d) Prohibited Amphibians: Common Name — Family — Genus/species:
 - (A) Order Caudata
 - (i) Tiger salamander — Ambystomatidae — *Ambystoma tigrinum* All nonnative sub-species;
 - (ii) Amphiumas — Amphiumidae — All species and hybrids;
 - (iii) Giant salamanders and Hellbenders — Cryptobranchidae — All species and hybrids;
 - (iv) American giant salamanders — Dicamptodontidae — All nonnative species and hybrids;
 - (v) Asian salamanders — Hynobiidae — *Ranodon* All species and hybrids;
 - (vi) Shovel-nosed salamander — Plethodontidae — *Leurognathus marmoratus*;
 - (vii) Waterdogs — Proteidae — *Necturus* All species and hybrids;
 - (viii) Firebelly newts — Salamandridae — *Cynops* All species and hybrids;
 - (ix) Brook salamanders — Salamandridae — *Euproctus* All species and hybrids;
 - (x) Spine-tailed salamanders — Salamandridae — *Mertensiella* All species and hybrids;
 - (xi) Eastern newt — Salamandridae — *Notophthalmus viridescens*;
 - (xii) Chinese crested newts — Salamandridae — *Pachytriton* All species and hybrids;
 - (xiii) Warty newts — Salamandridae — *Paramesotriton* All species and hybrids;
 - (xiv) Ribbed newts — Salamandridae — *Pleurodeles* All species and hybrids;
 - (xv) Fire salamanders — Salamandridae — *Salamandra* All species and hybrids;
 - (xvi) Roughskin newts — Salamandridae — *Taricha rivularis* and *T. torosa*;
 - (xvii) Alpine newts — Salamandridae — *Triturus* All species and hybrids;
 - (xviii) Crocodile newts — *Salamandridae* — *Tylostrotion* All species and hybrids;
 - (xix) Sirens — Sirenidae — All species and hybrids.
 - (B) Order Anura
 - (i) Fire-bellied toads — Bombinatoridae — *Bombina* All species and hybrids;
 - (ii) True toads — Bufonidae — *Bufo* All nonnative species and hybrids except *Bufo marinus*;
 - (iii) Midwife toads — Discoglossidae — *Alytes* All species and hybrids;
 - (iv) Painted frogs — Discoglossidae — *Discoglossus* All species and hybrids;
 - (v) Cricket frog — Hylidae — *Acris* All species and hybrids;
 - (vi) European tree frog — Hylidae — *Hyla arborea*;
 - (vii) Cope's gray tree frog — Hylidae — *Hyla chrysoscelis*;
 - (viii) Green tree frog — Hylidae — *Hyla cinerea*;
 - (ix) Mediterranean tree frog — Hylidae — *Hyla meridionalis*;
 - (x) Gray tree frog — Hylidae — *Hyla versicolor*;
 - (xi) Chorus frog — Hylidae — *Pseudacris* All nonnative species and hybrids;
 - (xii) Australian froglets — Myobatrachidae — *Crinia* All species and hybrids;(xiii) Australian swamp frogs — Myobatrachidae — *Limnodynastes* All species and hybrids;
 - (xiv) Barred frogs — Myobatrachidae — *Mixophyes* All species and hybrids;
 - (xv) Spadefoot toads — Pelobatidae — All nonnative species and hybrids;
 - (xvi) African clawed frog — Pipidae — *Xenopus* All species and hybrids;
 - (xvii) African bull frog — Ranidae — *Pyxicephalus* All species and hybrids;
 - (xviii) Siberian frog — Ranidae — *Rana altaica*;
 - (xix) Khabarovsk frog — Ranidae — *Rana amurensis*;
 - (xx) Crawfish frog — Ranidae — *Rana areolata*;
 - (xxi) Swedish swamp frog — Ranidae — *Rana arvalis*;
 - (xxii) Asian frog — Ranidae — *Rana asiatica*;
 - (xxiii) Rio Grande leopard frog — Ranidae — *Rana berlandieri*;
 - (xxiv) Plains leopard frog — Ranidae — *Rana blairi*;
 - (xxv) Caucasus frog — Ranidae — *Rana camerani*;
 - (xxvi) Inkiapo frog — Ranidae — *Rana chensinensis*;
 - (xxvii) Toudaohe frog — Ranidae — *Rana chevronta*;
 - (xxviii) Green frog — Ranidae — *Rana clamitans*;
 - (xxix) Spring frog — Ranidae — *Rana dalmatina*;
 - (xxx) Dybowski's frog — Ranidae — *Rana dybowskii*;
 - (xxxi) Stream frog — Ranidae — *Rana graeca*;
 - (xxxii) Pig frog — Ranidae — *Rana grylio*;
 - (xxxiii) River frog — Ranidae — *Rana heckscheri*;
 - (xxxiv) Turkish frog — Ranidae — *Rana holtzi*;
 - (xxxv) Iberian frog — Ranidae — *Rana iberica*;
 - (xxxvi) Agile frog — Ranidae — *Rana japonica*;
 - (xxxvii) Italian agile frog — Ranidae — *Rana latastei*;
 - (xxxviii) Taipa frog — Ranidae — *Rana longicrus*;
 - (xxxix) Brusa frog — Ranidae — *Rana macrocnemis*;
 - (xl) Nikko frog — Ranidae — *Rana ornativentris*;
 - (xli) Pickeral frog — Ranidae — *Rana palustris*;
 - (xlii) Mink frog — Ranidae — *Rana septentrionalis*;
 - (xliii) Wood frog — Ranidae — *Rana sylvatica*;
 - (xliv) Tago frog — Ranidae — *Rana tagoe*;
 - (xlv) European common frog — Ranidae — *Rana temporaria*;
 - (xlvi) Tsushima frog — Ranidae — *Rana tsushimensis*;
 - (xlvii) Carpenter frog — Ranidae — *Rana virgatipes*.
 - (e) Prohibited Reptiles: Common Name — Family — Genus/species:
 - (A) Order Testudines
 - (i) Snapping turtle — Chelydridae — All species and hybrids;

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- (ii) Chinese pond turtle — Emydidae — *Chinemys* All species and hybrids;
 - (iii) Pond turtle — Emydidae — *Clemmys* All nonnative species;
 - (iv) Painted turtle — Emydidae — *Chrysemys* All nonnative sub-species;
 - (v) European pond turtle — Emydidae — *Emys orbicularis*;
 - (vi) Blanding's turtle — Emydidae — Emydoidea blandingii;
 - (vii) Map turtle — Emydidae — Graptemys All species and hybrids;
 - (viii) Asian pond turtle — Emydidae — *Mauremys* All species and hybrids;
 - (ix) Pond slider — Emydidae — *Pseudemys* and *Trachemys* All species and hybrids;
 - (x) Common musk turtle — Kinosternidae — *Kinosternon odoratum*;
 - (xi) Common mud turtle — Kinosternidae — *Kinosternon subrubrum*;
 - (xii) North American soft shell — Trionychidae — *Apalone* All species and hybrids;
 - (xiii) African soft shell — Trionychidae — *Trionyx triunguis*.
- (B) Order Squamata (*Suborder Lacertilia*)
- (i) Slow worm — Anguillidae — *Anguis fragilis*;
 - (ii) Sand lizard — Lacertidae — *Lacerta agilis*;
 - (iii) Jewelled Lizard — Lacertidae — *Lacerta lepida*;
 - (iv) Iberian Mountain Lizard — Lacertidae — *Lacerta monticola*;
 - (v) Meadow Lizard — Lacertidae — *Lacerta praticola*;
 - (vi) Iberian Emerald Lizard — Lacertidae — *Lacerta schreiberi*;
 - (vii) Balkan Emerald Lizard — Lacertidae — *Lacerta trilineata*;
 - (viii) Emerald Lizard — Lacertidae — *Lacerta viridis*;
 - (ix) Viviparous Lizard — Lacertidae — *Lacerta vivipara*;
 - (x) Erhard's Wall Lizard — Lacertidae — *Podarcis erhardi*;
 - (xi) Iberian Wall Lizard — Lacertidae — *Podarcis hispanica*;
 - (xii) Common Wall Lizard — Lacertidae — *Podarcis muralis*;
 - (xiii) Crocodile lizard — Xenosauridae — *Shinisaurus crocodilurus*.
- (C) Order Squamata (*Suborder Serpentes*)
- (i) Brown tree snake — Colubridae — *Boiga irregularis*;
 - (ii) Black-necked spitting cobra — Elapidae — *Naja nigricollis*;
 - (iii) Cape cobra — Elapidae — *Naja nivea*;
 - (iv) Copperheads and cottonmouths — Viperidae — *Agkistrodon* All species and hybrids;
 - (v) Puff adders — Viperidae — *Bitis* All species and hybrids except *Bitis gabonica* and *B. nasicornis*;
 - (vi) Lanceheads — Viperidae — *Bothrops* All species and hybrids;
 - (vii) Palm pit vipers — Viperidae — *Bothriechis* All species and hybrids;
 - (viii) Rattlesnakes — Viperidae — All nonnative species and hybrids except *Crotalus aquilus*, *C. basiliscus*, *C. durissus*, *C. intermedius*, *C. poly-stictus*, *C. pusillus*, *C. tortugensis*, *C. triseriatus*, *C. unicolor*, and *C. veg-randis*;
 - (ix) Mid-east vipers — Viperidae — *Daboia* All species and hybrids;
 - (x) Pygmy rattlesnake — Viperidae — *Sistrurus catenatus*;
 - (xi) Asian pit vipers — Viperidae — *Trimeresurus* All species and hybrids;
 - (xii) Wagler's palm viper — Viperidae — *Tropidolaemus wagleri*;
 - (xiii) Sand vipers — Viperidae — *Vipera* All species and hybrids.
- (f) Prohibited Mollusks Common Name — Family — Genus/species:
- (A) Order Bivalvia
- (i) Asian clam — Corbiculidae — All species;
 - (ii) Zebra mussel — *Dreissenidae* — All species.
- (B) Order Neogastropoda Japanese oyster drill — Muricidae — *Cerastostoma inornatum*.
- (g) Prohibited Crustaceans Common Name — Family — Genus/species:
- (A) Order Decapoda
- (i) Chinese mitten crab — Grapsidae — *Eriocheir* All species;
 - (ii) Blue crab — Portunidae — *Callinectes sapidus*;
 - (iii) Crayfish — Cambaridae — All species.
- (2) The department may issue a permit for the importation, possession, sale, purchase, exchange or intrastate transportation of prohibited species and those species not yet classified if the department finds that the following standards have been met:
- (a) The facility is constructed to minimize escape of prohibited species;
 - (b) There are adequate security and safety programs and procedures which minimize the possibility of escape;
 - (c) There is adequate record keeping to aid in tracking of confined animals or recovery of escaped animals;
 - (d) There are adequate procedures, equipment and trained staff to maximize capture of escaped animals;
 - (e) Adequate veterinary care is provided to identify and minimize the spread of diseases; and

- (f) The applicant has a good reputation for care of animals and compliance with the wildlife laws.
 - (g) Using forms provided by the department, persons or entities may apply for a permit under subsection (2) as follows:
 - (A) Facilities accredited by the American Zoo and Aquarium Association (AZA). Because the department finds that the current AZA accreditation process holds these facilities to standards equivalent to those in subsection (2), AZA accreditation shall be evidence that the department's standards for importation, possession, sale, purchase, exchange or intrastate transportation of prohibited species are met. To obtain a permit for these activities, AZA accredited facilities shall submit a completed application form and proof of accreditation.
 - (B) Universities and colleges. To obtain a permit, universities and colleges shall submit:
 - (i) A completed application form;
 - (ii) A written description of escape avoidance procedures and facilities; and
 - (iii) Identification of the time period(s) during which prohibited species will be held.
 - (C) Others. To apply for a permit, persons and entities other than universities, colleges and AZA-accredited facilities shall submit:
 - (i) A completed application form; and
 - (ii) A completed Prohibited Species Questionnaire.
 - (h) Satisfactory facilities inspections may be required prior to issuance of any permit.
 - (3) The prohibitions imposed above regarding possession of Virginia opossum, nutria, Eastern gray squirrel, fox squirrel, and Eastern cottontail rabbit do not apply to licensed wildlife rehabilitators conducting wildlife rehabilitation in compliance with Department rules. Release of these species by licensed wildlife rehabilitators shall occur at a location designated by the Department.
- Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242
Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242
Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; FWC 16-1997(Temp), f. & cert. ef. 3-13-97; FWC 41-1997(Temp), f. & cert. ef. 7-23-97; FWC 59-1997, f. & cert. ef. 9-3-97; FWC 59-1997, f. & cert. ef. 9-3-97; FWC 72-1997, f. & cert. ef. 12-29-97; DFW 21-1998, f. & cert. ef. 3-13-98; DFW 63-1998, f. & cert. ef. 8-10-98; DFW 96-1998, f. & cert. ef. 11-25-98; DFW 99-1998, f. & cert. ef. 12-22-98; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 79-2000, f. & cert. ef. 12-22-00; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 114-2008, f. & cert. ef. 9-19-08
- ### 635-056-0070
- #### Controlled Species
- At the time the commission categorizes a species, subspecies or hybrid as Controlled, it shall also establish the controls necessary to protect native wildlife.
- (1) Controlled Mammals
 - (2) Controlled Birds
 - (a) Mute swans (*Cygnus olor*): The possession, transport, sale, purchase, exchange and offer to sell, purchase or exchange is allowed provided that all males are neutered and all individuals are surgically pinioned. Importation of any mute swan is prohibited.
 - (b) Hawks and falcons (families *Falconidae* and *Accipitridae*): The capture, possession, propagation, transportation, release, sale, purchase, exchange and disposition of falcons is allowed only as per the requirements of OAR 635 Division 44 (Holding, Propagating Protected Wildlife) and OAR 635 Division 55 (Falconry Licenses, Permits and Requirements).
 - (c) Game birds: (*Anatidae*, *Columbidae*, *Tetranidae*, *Phasianidae*, *Meleagrididae* *Gruidae*, *Rallidae*). The possession, propagation, sale, purchase and exchange of game birds is allowed only as per the requirements of OAR 635 Division 44 (Holding, Propagating Protected Wildlife).
 - (d) Unless authorized by the Department, European starling (*Sturnus vulgaris*) or House Sparrows (*Passer domesticus*) may not be imported into Oregon or released into the wild. However, viable eggs, nestlings, fledglings, or adults may be captured from the wild, possessed, bought or sold for any other purpose (including damage control, wildlife rehabilitation or research). Except for wildlife rehabilitation, no permit is required for such capture and possession. Release of these species by licensed wildlife rehabilitators shall occur at a location designated by the Department.
 - (3) Controlled Amphibians: Bullfrog (*Rana catesbeiana*) including viable eggs, hatchlings, tadpoles, juveniles and adults: No person may import, purchase, sell, barter or exchange, or offer to import, purchase, sell, barter or exchange live bullfrogs. Individual bullfrogs may be collected from the wild and held indoors in an escape proof aquarium as per OAR 635-044-0035. Release is prohibited unless the person first obtains a permit from the Director.
 - (4) Controlled Reptiles
 - (5) Controlled Mollusks
 - (a) Suminoe oysters (*Crassostrea ariakensis*), Pacific oysters (*C. gigas*), Kumamoto oysters (*C. sikamea*), Eastern oysters (*C. virginica*),

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and European flat oysters (*Ostrea edulis*) may be purchased and imported from outside Oregon (or from other estuaries within Oregon) for release into estuaries in Oregon pursuant to the terms of a permit issued by the department. Complete permit applications must be submitted to the department's Marine Resources Program Headquarters (2040 SE Marine Science Drive, Newport, Oregon 97365) at least 15 days before proposed stocking. Oysters may be commercially harvested and sold pursuant to OAR 635-005-0001 through 635-005-0035.

(b) Softshell clam (*Mya arenaria*), Japanese varnish clam (*Nuttallia obscurata*), and Japanese littleneck clam (*Venerupis philippinarum*) may be harvested, possessed and sold commercially pursuant to OAR 635-005-0001 through 635-005-0035 or harvested and possessed recreationally pursuant to OAR 635-039.

(6) Controlled Crustaceans:

(a) Green crabs (*Carcinus maenas*) may be harvested recreationally pursuant to OAR 635-039. Once harvested, it is unlawful to return green crab to state waters. It is unlawful to take green crab for commercial purposes.

(b) Whiteleg shrimp (*Litopenaeus vannamei*): The possession, propagation, transportation, sale, purchase, exchange and disposition of whiteleg shrimp is controlled according to the following restrictions and standards:

(i) A person must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing production;

(ii) Propagation must occur in ponds covered with nets or screens adequate to prevent the capture or transport of cultured shrimp by predators or other animals;

(iii) Access to production facilities must be through secure locked gates;

(iv) Only animals certified as disease-free by the vendor may be purchased;

(v) Permittees must provide adequate veterinary care to identify and minimize the spread of diseases originating from the animals being held;

(vi) No live whiteleg shrimp or their gametes, fertilized eggs, or larvae may be released into waters of this State, as defined in ORS 506.006; and

(vii) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live whiteleg shrimp imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed.

(b) Giant river prawns (*Macrobrachium rosenbergii*): The possession, propagation, transportation, sale, purchase, exchange and disposition of giant river prawns is controlled according to the following restrictions and standards:

(i) A person must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing production;

(ii) Propagation must occur in ponds covered with nets or screens adequate to prevent the capture or transport of cultured prawns by predators or other animals;

(iii) Access to production facilities must be through secure locked gates;

(iv) Only animals certified as disease-free by the vendor may be purchased;

(v) Permittees must provide adequate veterinary care to identify and minimize the spread of diseases originating from the animals being held;

(vi) No giant river prawns or their gametes, fertilized eggs, or larvae may be released into waters of this State, as defined in ORS 506.006; and

(vii) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live giant river prawns imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed.

Stat. Auth.: 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242

Stats. Implemented: 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222, 498.242

Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; FWC 59-1997, f. & cert. ef. 9-3-97; DFW 63-1998, f. & cert. ef. 8-10-98; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 79-2000, f. & cert. ef. 12-22-00; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 53-2008(Temp), f. & cert. ef. 5-28-08 thru 9-19-08; DFW 114-2008, f. & cert. ef. 9-19-08

635-056-0075

Controlled Fish Species

(1) Grass carp (*Ctenopharyngodon idella*): Grass carp may be released into water bodies within Oregon only pursuant to the issuance of a permit from the Department. Complete permit applications shall be submitted to Department headquarters at least 60 days before proposed stocking.

(2)(a) The following restrictions and standards will govern the issuance of grass carp permits:

(A) Stocking will occur only in water bodies which are:

(i) Completely within private land; or

(ii) On land owned or controlled by irrigation districts or drainage districts.

(B) Stocking will occur only in the following types of water bodies:

(i) Lakes, ponds, or reservoirs less than 10 acres; or

(ii) Ditches and canals.

(C) Public use of the water body must be restricted to prevent removal of grass carp (by angling or otherwise) by unauthorized persons. At a minimum, the water body must be closed to angling and other use by the general public.

(D) Stocking shall not detrimentally affect any population of species listed as threatened or endangered by the federal or state government.

(E) Stocking shall occur only in water bodies with fish screens approved by the Department. Such screens shall have screen openings 1 inch or less for fish 12–19 inches total length and screen openings 2 inches or less for fish over 19 inches total length. Screens shall be inspected and approved by the Department before a permit will be issued. The applicant must comply with fish passage requirements (OAR 635, Division 412); given grass carp screening requirements, this entails applying for and receiving a waiver or exemption from passage requirements if grass carp will be stocked into waters where native migratory fish are or were historically present.

(F) Stocking will not be allowed in water bodies within 100-year floodplains (as delineated by the Federal Emergency Management Agency on federal Flood Insurance Rate Maps) during times of potential flood. Times of potential flood are January 1 through July 31 in watersheds east of the Cascades and October 15 through May 31 in watersheds west of the Cascades. Grass carp will be removed from water bodies in a 100-year floodplain and held or disposed of during times of potential flood. If grass carp will be held and not disposed of, they shall be held at a permitted site outside the 100-year floodplain. Applications for sites within a 100-year floodplain shall contain a detailed removal plan which shall receive Department approval.

(G) Grass carp may only be purchased and imported from approved suppliers outside Oregon. Grass carp may not be propagated or held for further distribution within Oregon. Department pathologists shall approve suppliers. Approval will be based on ability to provide grass carp free of Asian tapeworms and meet health and disease requirements according to OAR 635-007-0555 through 635-007-0585.

(H) Grass carp imported into Oregon shall be:

(i) Sterile triploids. Documentation from the U.S. Fish and Wildlife Service that each fish is triploid must be submitted to the Department prior to release;

(ii) At least 12 inches long;

(iii) Tagged with a Passive Integrated Transponder (PIT) tag of frequency 134.2-kilohertz. Each tag shall be programmed with a unique identification number. A list of unique tag numbers shall be submitted to the Department prior to release; and

(iv) Stocked at a rate not exceeding 22 per affected acre.

(b) In addition to documentation relating to the restrictions above, each permit application shall include:

(A) Applicant's name, address and daytime telephone number. All property owners of the water body to which grass carp will have unrestricted access must be party to the application and permit;

(B) Location of the water body, including township, range, section and quarter section, with map including written directions for access;

(C) Map of the water body including, vegetation present in the water body, all inlets and outlets, and screen locations;

(D) Description of emergency procedures for responding to fish escapes from approved sites;

(E) Description of how fish will be removed and disposed of at the end of the proposed project.

(c) An application becomes the management plan upon approval. Permits and management plans shall be specific to particular sites and particular stocking projects. Permittees shall not deviate from permit conditions and management plans without prior written approval from the Department. No person may remove grass carp from one site (as identified in a management plan) and transport them to any other site without prior written approval from the Department.

(d) An Oregon Department of Fish and Wildlife fish transport permit shall accompany grass carp imported into and transported within Oregon. If transport is required within the management plan and occurs entirely on the permittee's property, a transport permit is not needed. Any other permit or documentation required for fish import, transport, or stocking shall also be obtained prior to importation and stocking.

(e) Permittees shall, as a condition of the permit, allow employees of the Department or the Oregon State Police to inspect at reasonable times the permitted water body, permit, and associated records. Inspection may take place without warrant or notice, but, unless prompted by emergency or other exigent circumstances, shall be limited to regular and usual business

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hours, including weekends. Nothing in these rules is intended to authorize or allow the warrantless search or inspection of property other than the water bodies or fish holding facilities on the permittee's property.

(f) Permits are revocable at any time for violation of any wildlife statute or rule of the Department. Upon revocation, if stocking has already occurred, the permittee shall remove all grass carp within two weeks at her/his own cost.

(g) Grass carp which escape a permitted water body are subject to seizure or destruction by the Department at the expense of the permit holder. The permit holder shall be held liable for incidental kill of any other species due to or during destruction of escaped grass carp.

(h) The Commission may grant an exception to OAR 635-056-0075(2)(a)(B) or (2)(a)(F) Exception requests must be submitted in writing in addition to the normal application and must address the requirements in this section. Unless the Commission determines that an alternative provides equivalent protection to fish and wildlife resources and their habitats, exceptions shall have the following additional requirements:

(A) If the water body into which grass carp will be stocked is greater than or equal to 10 acres a professional topographic survey by a licensed surveyor must be provided for the entire perimeter of the water body showing all points of water movement in and out of the water body. A topographic survey completed by a state or federal agency within five years from the date of application for the water body may be used. The Department shall determine screening requirements from the survey;

(B) Grass carp may remain in a water body within the 100-year floodplain year-round if a professional plan or drawing that is certified by a licensed engineer is provided which indicates that the entire perimeter of the water body is protected from 100-year floods. In order to prevent grass carp escape, screens, dikes, and devices protecting the water body must be able to remain structurally sound within 100-year floods and not be overtopped by a 100-year flood. The Department reserves the right to have a licensed engineer retained by the agency review and approve or deny the plan or drawing submitted by the applicant.

(3) Tilapia (Mozambique tilapia *Oreochromis mossambicus*, Nile tilapia *O. niloticus*, and hybrids thereof): The possession, propagation, transportation, sale, purchase, exchange and disposition of these tilapia is controlled according to the following restrictions and standards:

(i) A person must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing production;

(ii) Propagation must occur in ponds covered with nets or screens adequate to prevent the capture or transport of cultured fish by predators or other animals;

(iii) Access to production facilities must be through secure locked gates;

(iv) Only animals certified as disease-free by the vendor may be purchased;

(v) Permittees must provide adequate veterinary care to identify and minimize the spread of diseases originating from the animals being held;

(vi) No live tilapia or their gametes, fertilized eggs, or larvae may be released into waters of this State, as defined in ORS 506.006; and

(vii) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live tilapia imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed.

Stat. Auth.: ORS 496.012, 496.138 & 496.146
Stats. Implemented: ORS 497.308, 497.318, 498.022, 498.052 & 498.222
Hist.: DFW 63-1998, f. & cert. ef. 8-10-98; DFW 94-1999, f. & cert. ef. 12-23-99; DFW 79-2000, f. & cert. ef. 12-22-00; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 64-2003, f. & cert. ef. 7-17-03; DFW 53-2008(Temp), f. & cert. ef. 5-28-08 thru 9-19-08; DFW 114-2008, f. & cert. ef. 9-19-08

Rule Caption: Chinook Fishery Re-opens In Columbia River from Warrior Rock to Bonneville Dam.

Adm. Order No.: DFW 115-2008(Temp)

Filed with Sec. of State: 9-18-2008

Certified to be Effective: 9-18-08 thru 12-31-08

Notice Publication Date:

Rules Amended: 635-023-0130

Rules Suspended: 635-023-0130(T)

Subject: Amended rule allows retention of Chinook salmon in the mainstem Columbia River recreational fishery beginning September 20, 2008 and until further notice, in the area from the Warrior Rock-Bachelor Island line (located above the mouth of the Lewis River) upstream to Bonneville Dam with a combined bag limit for adult salmon and/or steelhead of two fish, only 1 of which may be a Chinook. Retained Chinook do not have to be fin-clipped. The area from the Warrior Rock- Bachelor Island line downstream to the Tongue

Point-Rocky Point line will remain closed to retention of Chinook (adults and jacks) but will remain open for adipose fin-clipped coho and steelhead. Modifications are consistent with action taken September 18, 2008 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0130

Fall Sport Fishery

(1) The **2008 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 **2008 Oregon Sport Fishing Regulations**.

(2) Notwithstanding all other specifications and restrictions in the **2008 Oregon Sport Fishing Regulations**:

(a) Effective August 1 through December 31, in the mainstem Columbia River from a north-south line through Buoy 10 upstream to a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank the combined bag limit for adult salmon and adipose fin-clipped steelhead is two fish per day of which only one may be a Chinook; except:

(A) Retention of Chinook is prohibited during August 25 through December 31; and

(B) Angling for salmon and steelhead is prohibited during August 31 through December 31.

(b) Effective August 1 through December 31, in the mainstem Columbia River from a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank upstream to Bonneville Dam the combined bag limit for adult salmon and adipose fin-clipped steelhead is two fish per day of which only one may be a Chinook; except:

(A) Retention of Chinook is only allowed during September 1 through September 16; and

(B) Retention of Chinook is prohibited from August 1 through December 31 in the area bounded by a line projected from the lower end of Bachelor Island, Washington to the Warrior Rock Lighthouse, Oregon downstream to a line projected from navigation marker #62 at the head of Deer Island, Oregon to marker #63 on Martin Island, Washington.

(c) Effective September 20 through December 31, or until further notice, in the mainstem Columbia River from the Warrior Rock-Bachelor Island line (located above the mouth of the Lewis River) upstream to Bonneville Dam the combined daily bag limit for adult salmon and/or steelhead is two fish, but only 1 may be a Chinook. Retained Chinook do not have to be fin-clipped. The area from the Warrior Rock-Bachelor Island line downstream to the Tongue Point-Rocky Point line will remain closed to retention of Chinook (adults and jacks) but will remain open for adipose fin-clipped coho and steelhead.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 92-2004(Temp), f. 9-2-04 cert. ef. 9-6-04 thru 12-31-04; DFW 96-2004(Temp), f. 9-20-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 108-2005(Temp), f. 9-15-05, cert. ef. 9-17-05 thru 12-31-05; DFW 112-2005(Temp), f. 9-28-05, cert. ef. 9-30-05 thru 12-31-05; DFW 123-2005(Temp), f. 10-18-05, cert. ef. 10-20-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 100-2006(Temp), f. & cert. ef. 9-14-06 thru 12-31-06; DFW 109-2006(Temp), f. 9-29-06, cert. ef. 9-30-06 thru 12-31-06; DFW 113-2006(Temp), f. 10-12-06, cert. ef. 10-13-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 92-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 96-2007(Temp), f. 9-21-07, cert. ef. 9-22-07 thru 12-31-07; DFW 101-2007(Temp), f. 9-28-07, cert. ef. 9-29-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 99-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 12-31-08; DFW 104-2008(Temp), f. 8-29-08, cert. ef. 8-31-08 thru 12-31-08; DFW 115-2008(Temp), f. & cert. ef. 9-18-08 thru 12-31-08

Rule Caption: Commercial Directed Sardine Fishery Closed Until January 1, 2009.

Adm. Order No.: DFW 116-2008(Temp)

Filed with Sec. of State: 9-22-2008

Certified to be Effective: 9-22-08 thru 12-31-08

Notice Publication Date:

Rules Amended: 635-004-0016

Rules Suspended: 635-004-0016(T)

Subject: This amended rule adopts management measures for the 2008 commercial sardine fishery that are consistent with federal regulations, as approved by the Pacific Fishery Management Council in November 2007. In accordance with these 2008 management meas-

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ures, the amended rule closes the commercial directed fishery for Pacific sardine until January 1, 2008.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-004-0016

Harvest Guideline

(1) This rule incorporates, by reference, the sardine management measures for 2008 included in the Pacific Council List of Decisions for the November 2007 Pacific Fishery Management Council Meeting, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations, Title 50 Part 660**, as amended to incorporate the standards recommendations of the Pacific Council. Therefore, persons must consult the Federal Regulations in addition to this rule to determine all applicable sardine fishing requirements. Where regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone.

(2) Notwithstanding the management measures in section (1) above, effective 12:01 a.m. August 8, 2008, the directed fishery for Pacific sardines is closed until September 15, 2008.

(3) Notwithstanding the management measures in section (1) above, effective 12:01 a.m. September 23, 2008, the directed fishery for Pacific sardines is closed until January 1, 2009.

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

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 69-2008(Temp), f. & cert. ef. 6-24-08 thru 12-20-08; DFW 89-2008(Temp), f. & cert. ef. 8-6-08 thru 12-31-08; DFW 116-2008(Temp), f. & cert. ef. 9-22-08 thru 12-31-08

Rule Caption: Extension of Treaty Indian Fall Salmon Season In the Columbia River and Tributaries.

Adm. Order No.: DFW 117-2008(Temp)

Filed with Sec. of State: 9-22-2008

Certified to be Effective: 9-22-08 thru 10-31-08

Notice Publication Date:

Rules Amended: 635-041-0075

Rules Suspended: 635-041-0075(T)

Subject: Amended rule adds a 4.5 day (108 hours) fishing period to the Tribal Indian fall commercial gill net salmon season in the Columbia River and tributaries. The new fishing period begins at 6:00 a.m. Monday, September 22, 2008 and extends through 6:00 p.m. Friday, September 26, 2008. Modifications are consistent with action taken September 18, 2008 by the Columbia River Compact agencies of Oregon and Washington in concert with the Columbia River Inter-Tribal Fish Commission.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0075

Fall Salmon Season

(1) Chinook, coho, sockeye, steelhead, walleye, carp, and shad may be taken by gill net for commercial purposes from the mainstem Columbia River, Zone 6 during the following periods:

6:00 a.m. Tuesday, September 9 through 6:00 p.m. Friday, September 12, 2008 (84 hours);

6:00 a.m. Tuesday, September 16 through 6:00 p.m. Friday, September 19, 2008 (84 hours);

6:00 a.m. Monday, September 22 through 6:00 p.m. Friday, September 26, 2008 (108 hours);

(a) An 8-inch minimum mesh size restriction is in effect.

(b) Allowable sales include Chinook, coho, sockeye, steelhead, walleye, carp, and shad.

(c) Sturgeon may not be sold. However, white sturgeon between 48 and 60 inches in length taken from The Dalles and John Day pools may be kept for subsistence use. White sturgeon between 42 and 60 inches in length taken from the Bonneville Pool may be kept for subsistence use. White sturgeon caught in subsistence fisheries downstream of Bonneville Dam must be released immediately unharmed.

(d) Closed areas are set forth in OAR 635-041-0045, including the closure at the mouth of Spring Creek are in effect.

(2) Sales of fish caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake/Little White Salmon River; and Big White Salmon River, including the Yakama Nation subsistence fishery on the Washington shore downstream of Bonneville Dam, are allowed during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods, subject to restrictions as specified in section 1 above.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982 (Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984 (Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987 (Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988 (Temp), f. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989 (Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. 10-2-92, cert. ef. 10-5-92; FWC 107-1992 (Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. 9-16-97, cert. ef. 9-17-97; FWC 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. ef. 8-9-98 thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03 cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. 10-12-04 cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 71-2006(Temp), f. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. 9-8-06, cert. ef. 9-11-06 thru 12-31-06; DFW 101-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 107-2006(Temp), f. 9-28-06, cert. ef. 10-3-06 thru 12-31-06; DFW 115-2006(Temp), f. 10-13-06, cert. ef. 10-15-06 thru 12-31-06; Administrative correction 1-16-07; DFW 60-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; DFW 77-2007(Temp), f. 8-17-07, cert. ef. 8-22-07 thru 12-31-07; DFW 88-2007(Temp), f. 9-10-07, cert. ef. 9-11-07 thru 12-31-07; DFW 95-2007(Temp), f. 9-21-07, cert. ef. 9-25-07 thru 12-31-07; DFW 100-2007(Temp), f. 9-28-07, cert. ef. 10-3-07 thru 12-31-07; DFW 110-2007(Temp), f. 10-16-07, cert. ef. 10-20-07 thru 12-31-07; DFW 106-2008(Temp), f. 9-4-08, cert. ef. 9-6-08 thru 10-31-08; DFW 109-2008(Temp), f. 9-12-08, cert. ef. 9-15-08 thru 10-31-08; DFW 112-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 10-31-08; DFW 117-2008(Temp), f. & cert. ef. 9-22-08 thru 10-31-08

Rule Caption: Columbia River Recreational Chinook Salmon Daily Limit Increases Between Warrior Rock and Bonneville Dam.

Adm. Order No.: DFW 118-2008(Temp)

Filed with Sec. of State: 9-24-2008

Certified to be Effective: 9-25-08 thru 12-31-08

Notice Publication Date:

Rules Amended: 635-023-0130

Rules Suspended: 635-023-0130(T)

Subject: Amended rule allows retention of two adult Chinook salmon beginning September 25, 2008 and until further notice in the

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mainstem Columbia River recreational fishery from the Warrior Rock-Bachelor Island line (located above the mouth of the Lewis River) upstream to Bonneville Dam. The combined bag limit for adult salmon and/or steelhead remains two fish, of which both may be a Chinook. Retained Chinook do not have to be fin-clipped. The area from the Warrior Rock-Bachelor Island line downstream to the Tongue Point-Rocky Point line remains closed to retention of Chinook (adults and jacks) but remains open for adipose fin-clipped coho and steelhead. Modifications are consistent with action taken September 23, 2008 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0130

Fall Sport Fishery

(1) The **2008 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 **2008 Oregon Sport Fishing Regulations**.

(2) Notwithstanding all other specifications and restrictions in the 2008 Oregon Sport Fishing Regulations:

(a) Effective August 1 through December 31, in the mainstem Columbia River from a north-south line through Buoy 10 upstream to a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank the combined bag limit for adult salmon and adipose fin-clipped steelhead is two fish per day of which only one may be a Chinook; except:

(A) Retention of Chinook is prohibited during August 25 through December 31; and

(B) Angling for salmon and steelhead is prohibited during August 31 through December 31.

(b) Effective August 1 through December 31, in the mainstem Columbia River from a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank upstream to Bonneville Dam the combined bag limit for adult salmon and adipose fin-clipped steelhead is two fish per day of which only one may be a Chinook; except:

(A) Retention of Chinook is only allowed during September 1 through September 16; and

(B) Retention of Chinook is prohibited from August 1 through December 31 in the area bounded by a line projected from the lower end of Bachelor Island, Washington to the Warrior Rock Lighthouse, Oregon downstream to a line projected from navigation marker #62 at the head of Deer Island, Oregon to marker #63 on Martin Island, Washington.

(c) Effective September 25 through December 31, or until further notice, in the mainstem Columbia River from the Warrior Rock-Bachelor Island line (located above the mouth of the Lewis River) upstream to Bonneville Dam the combined daily bag limit for adult salmon and/or steelhead is two fish per day. Retained Chinook do not have to be fin-clipped. The area from the Warrior Rock-Bachelor Island line downstream to the Tongue Point-Rocky Point line will remain closed to retention of Chinook (adults and jacks) but will remain open for adipose fin-clipped coho and steelhead.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 92-2004(Temp), f. 9-2-04 cert. ef. 9-6-04 thru 12-31-04; DFW 96-2004(Temp), f. 9-20-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 108-2005(Temp), f. 9-15-05, cert. ef. 9-17-05 thru 12-31-05; DFW 112-2005(Temp), f. 9-28-05, cert. ef. 9-30-05 thru 12-31-05; DFW 123-2005(Temp), f. 10-18-05, cert. ef. 10-20-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 100-2006(Temp), f. & cert. ef. 9-14-06 thru 12-31-06; DFW 109-2006(Temp), f. 9-29-06, cert. ef. 9-30-06 thru 12-31-06; DFW 113-2006(Temp), f. 10-12-06, cert. ef. 10-13-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 92-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 96-2007(Temp), f. 9-21-07, cert. ef. 9-22-07 thru 12-31-07; DFW 101-2007(Temp), f. 9-28-07, cert. ef. 9-29-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 99-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 12-31-08; DFW 104-2008(Temp), f. 8-29-08, cert. ef. 8-31-08 thru 12-31-08; DFW 115-2008(Temp), f. & cert. ef. 9-18-08 thru 12-31-08; DFW 118-2008(Temp), f. 9-24-08, cert. ef. 9-25-08 thru 12-31-08

Rule Caption: Late Fall Commercial Chinook Salmon Gill Net Season in the Columbia River Expanded.

Adm. Order No.: DFW 119-2008(Temp)

Filed with Sec. of State: 9-24-2008

Certified to be Effective: 9-24-08 thru 12-31-08

Notice Publication Date:

Rules Amended: 635-042-0060

Rules Suspended: 635-042-0060(T)

Subject: Amended rule adds seven new fishing periods in the Columbia River for the commercial harvest, retention and sales of Chinook salmon and white sturgeon in Zones 4-5 beginning September 24, 2008. The proposed seasons provide opportunity for the commercial gill net fleet to harvest part of their pre-season allocation. Revisions are consistent with action taken September 23, 2008 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0060

Late Fall Salmon Season

(1) Salmon and white sturgeon may be taken by gill nets for commercial purposes from the Columbia River during the open fishing periods and areas identified in sections (2) through (5) below. Retention of green sturgeon is prohibited.

(2) From 7:00 a.m. to 7:00 p.m. (12 hours) Thursday, September 18, 2008 in Zones 1-5.

(a) Gear is restricted to gill nets with a 9-inch minimum and 9.75-inch maximum mesh size.

(b) As applicable: Elokomin-B, Abernathy, Cowlitz, Kalama-B, Lewis-B*, Sandy and Washougal river sanctuaries are in effect. *Lewis-B includes all of the area from the upper boundary of the Lewis-B sanctuary downstream to a line projected from the red navigation Marker 62 at the head of Deer Island, Oregon, across to the green navigation Marker 63 at Martin Island, Washington.

(c) A maximum of ten white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). The weekly aggregate white sturgeon limit applies to possession and sales in the Columbia River mainstem only. The Columbia River Select Areas are currently closed to the retention of white sturgeon.

(3) From 7:00 p.m. Sunday, September 21 to 7:00 a.m. Monday, September 22, 2008 (12 hours) in Zones 1-5.

(a) Gear is restricted to gill nets with a 8-inch minimum and 9.75-inch maximum mesh size.

(b) As applicable: Elokomin-B, Abernathy, Cowlitz, Kalama-B, Lewis-B*, Sandy and Washougal river sanctuaries are in effect. *Lewis-B includes all of the area from the upper boundary of the Lewis-B sanctuary downstream to a line projected from the red navigation Marker 62 at the head of Deer Island, Oregon, across to the green navigation Marker 63 at Martin Island, Washington.

(c) A maximum of ten white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) and the weekly aggregate white sturgeon limit applies to possession and sales in the Columbia River mainstem only. The Columbia River Select Areas are currently closed to the retention of white sturgeon.

(d) 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 0.375-inches or greater.

(4) From 9:00 p.m. Tuesday, September 23 to 7:00 a.m. Wednesday, September 24, 2008 (10 hours) in Zones 4-5.

(a) Gear is restricted to gill nets with a 8-inch minimum and 9.75-inch maximum mesh size.

(b) As applicable: Elokomin-B, Abernathy, Cowlitz, Kalama-B, Lewis-B*, Sandy and Washougal river sanctuaries are in effect. *Lewis-B includes all of the area from the upper boundary of the Lewis-B sanctuary downstream to a line projected from the red navigation Marker 62 at the head of Deer Island, Oregon, across to the green navigation Marker 63 at Martin Island, Washington.

(c) A maximum of ten white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) and the weekly aggregate white sturgeon limit applies to possession and sales in the Columbia River mainstem only. The Columbia River Select Areas are currently closed to the retention of white sturgeon.

(d) 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 0.375-inches or greater.

(5) From 7:00 a.m. to 7:00 p.m. (12 hours) Thursday, September 25, 2008 in Zones 1-5.

(a) Gear is restricted to gill nets with a 9-inch minimum and 9.75-inch maximum mesh size.

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(b) As applicable: Elokomin-B, Abernathy, Cowlitz, Kalama-B, Lewis-B*, Sandy and Washougal river sanctuaries are in effect. *Lewis-B includes all of the area from the upper boundary of the Lewis-B sanctuary downstream to a line projected from the red navigation Marker 62 at the head of Deer Island, Oregon, across to the green navigation Marker 63 at Martin Island, Washington.

(c) A maximum of ten white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) and the weekly aggregate white sturgeon limit applies to possession and sales in the Columbia River mainstem only. The Columbia River Select Areas are currently closed to the retention of white sturgeon.

(d) 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 0.375-inches or greater.

Stat. Auth.: ORS 496.118, 506.109

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 40-1979, f. & ef. 9-10-79; FWC 45-1979(Temp), f. & ef. 9-21-79; FWC 52-1979(Temp), f. & ef. 11-2-79; FWC 48-1980(Temp), f. & ef. 9-19-80; FWC 51-1980(Temp), f. & ef. 9-22-80; FWC 55-1980(Temp), f. & ef. 9-26-80; FWC 56-1980(Temp), f. & ef. 9-29-80; FWC 58-1980(Temp), f. & ef. 10-17-80; FWC 37-1981(Temp), f. & ef. 9-24-81; FWC 38-1981(Temp), f. & ef. 9-29-81; FWC 69-1982(Temp), f. & ef. 9-30-82; FWC 72-1982(Temp), f. & ef. 10-20-82; FWC 56-1983(Temp), f. & ef. 10-5-83; FWC 54-1984(Temp), f. & ef. 9-10-84; FWC 59-1984(Temp), f. & ef. 9-18-84; FWC 66-1984(Temp), f. & ef. 9-26-84; FWC 68-1984(Temp), f. & ef. 10-2-84; FWC 58-1985(Temp), f. & ef. 9-13-85; FWC 62-1985 (Temp), f. & ef. 9-24-85; FWC 66-1985(Temp), f. & ef. 10-11-85; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 64-1986 (Temp), f. & ef. 10-3-86; FWC 67-1986(Temp), f. & ef. 10-17-86; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987 (Temp), f. & ef. 9-11-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 91-1987(Temp), f. & ef. 10-16-87; FWC 85-1988(Temp), f. & cert. ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 10-7-88; FWC 100-1988(Temp), f. & cert. ef. 10-24-88; FWC 94-1989(Temp), f. & cert. ef. 9-15-89, cert. ef. 9-17-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989(Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. & cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 10-8-90; FWC 105-1991, f. & cert. ef. 9-20-91; FWC 118-1991, f. & cert. ef. 10-4-91; FWC 122-1991(Temp), f. & cert. ef. 10-18-91; FWC 129-1991(Temp), f. & cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-22-92; FWC 100-1992(Temp), f. & cert. ef. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 109-1992(Temp), f. & cert. ef. 10-19-92, cert. ef. 10-20-92; FWC 110-1992(Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. & cert. ef. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. & cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. & cert. ef. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. & cert. ef. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC 64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-1997(Temp), f. & cert. ef. 11-3-97; DFW 79-1999(Temp), f. & cert. ef. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. & cert. ef. 10-26-99, cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-2000(Temp), f. & cert. ef. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. & cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. & cert. ef. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. & cert. ef. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. & cert. ef. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. & cert. ef. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106-2002(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp), f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. & cert. ef. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. & cert. ef. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. & cert. ef. 9-12-03, cert. ef. 9-15-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. & cert. ef. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. & cert. ef. 10-10-03, cert. ef. 10-12-03 thru 12-31-03; DFW 107-2003(Temp), f. & cert. ef. 10-21-03, cert. ef. 10-26-03 thru 12-31-03; DFW 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 98-2004(Temp), f. & cert. ef. 9-22-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 101-2004(Temp), f. & cert. ef. 9-29-04 thru 12-31-04; DFW 102-2004(Temp), f. & cert. ef. 10-1-04, cert. ef. 10-4-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; Administrative correction, 2-18-05; 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 113-2005(Temp), f. & cert. ef. 9-28-05 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; DFW 126-2005(Temp), f. & cert. ef. 10-21-05, cert. ef. 10-23-05 thru 12-31-05; Administrative correction 1-19-06; DFW 102-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-19-06 thru 12-31-06; DFW 106-2006(Temp), f. & cert. ef. 9-22-06, cert. ef. 9-25-06 thru 12-31-06; DFW 111-2006(Temp), f. & cert. ef. 9-29-06, cert. ef. 10-2-06 thru 12-31-06; DFW 112-2006(Temp), f. & cert. ef. 10-4-06, cert. ef. 10-8-06 thru 12-31-06; DFW 114-2006(Temp), f. & cert. ef. 10-12-06 thru 12-31-06; DFW 120-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 91-2007(Temp), f. & cert. ef. 9-19-07 thru 12-31-07; DFW 94-2007(Temp), f. & cert. ef. 9-21-07, cert. ef. 9-24-07 thru 12-31-07; DFW 97-2007(Temp), f. & cert. ef. 9-25-07, cert. ef. 9-26-07 thru 12-31-07; DFW 98-2007(Temp), f. & cert. ef. 9-26-07, cert. ef. 9-27-07 thru 12-31-07; DFW 99-2007(Temp), f. & cert. ef. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 104-2007(Temp), f. & cert. ef. 10-3-07 thru 12-31-07; DFW 107-2007(Temp), f. & cert. ef. 10-10-07 thru 12-31-07; DFW 109-2007(Temp), f. & cert. ef. 10-16-07, cert. ef. 10-17-07 thru 12-31-07; DFW 111-2007(Temp), f. & cert. ef. 10-22-07, cert. ef. 10-23-07 thru 12-31-07; DFW 112-2007(Temp), f. & cert. ef. 10-24-07, cert. ef. 10-25-07 thru 12-31-07; DFW 113-2008(Temp), f. & cert. ef. 9-17-08, cert. ef. 9-18-08 thru 12-31-08; DFW 119-2008(Temp), f. & cert. ef. 9-24-08 thru 12-31-08

Rule Caption: Sport Pacific halibut all-depth fishery re-opens from Cape Falcon to Humbug Mountain, Oregon.

Adm. Order No.: DFW 120-2008(Temp)

Filed with Sec. of State: 9-25-2008

Certified to be Effective: 9-27-08 thru 12-31-08

Notice Publication Date:

Rules Amended: 635-039-0085

Rules Suspended: 635-039-0085(T)

Subject: Amended rule re-opens the Pacific sport halibut all-depth fishery in the area between Cape Falcon and Humbug Mountain from 12:01 a.m. Saturday, September 27 through 11:59 p.m. Saturday, September 27, 2008 with a daily bag limit of one fish. Revisions are consistent with regulations implemented by the federal government and the International Pacific Halibut Commission for the 2008 Oregon recreational fishery for Pacific halibut.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-039-0085

Halibut Seasons

(1) The Pacific halibut sport fishery in Oregon is regulated by the federal government and the International Pacific Halibut Commission (IPHC). OAR chapter 635, division 039 incorporates into Oregon Administrative Rules, by reference, modifications or additions to provisions determined by the IPHC and to the extent they are consistent with Title 50 of the Code of Federal Regulations, Part 300, Subpart E (61FR35550, July 5, 1996) Volume 73, Number 46, dated March 7, 2008 and as amended by Federal Regulations.

(2) Effective 11:59 p.m., Sunday August 2, 2008 the Columbia River sub-area (Cape Falcon, OR to Leadbetter Pt., WA) is closed to the retention of Pacific halibut.

(3) Effective 12:01 a.m. Friday, August 22 through 11:59 p.m. Saturday, August 23, 2008 the Columbia River sub-area (Cape Falcon, OR to Leadbetter Pt., WA) re-opens to the retention of Pacific halibut.

(4) Effective 12:01 a.m. Friday, August 29 through 11:59 p.m. Friday, August 29, 2008 the Columbia River sub-area (Cape Falcon, OR to Leadbetter Pt., WA) re-opens to the retention of Pacific halibut.

(5) Effective 11:59 p.m. Sunday, September 7, 2008 the area between Cape Falcon and Humbug Mountain, Oregon is closed to the retention of Pacific halibut.

(6) Effective 12:01 a.m. Saturday, September 13, 2008 through 11:59 p.m. Sunday, September 14, 2008 the area between Cape Falcon and Humbug Mountain, Oregon, re-opens to the retention of Pacific halibut with a daily bag limit of two fish.

(7) Effective 12:01 a.m. Saturday, September 20, 2008 through 11:59 p.m. Sunday, September 21, 2008 the area between Cape Falcon and Humbug Mountain, Oregon, re-opens to the retention of Pacific halibut with a daily bag limit of two fish.

(8) Effective 12:01 a.m. Saturday, September 27, 2008 through 11:59 p.m. Saturday, September 27, 2008 the area between Cape Falcon and Humbug Mountain, Oregon, re-opens to the retention of Pacific halibut with a daily bag limit of one fish.

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

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 89-2005(Temp), f. & cert. ef. 8-12-05 thru 12-12-05; DFW 107-2005(Temp), f. 9-14-05, cert. ef. 9-15-05 thru 10-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-19-06; DFW 34-2006(Temp), f. 5-25-06, cert. ef. 5-27-06 thru 8-3-06; Administrative correction 8-22-06; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 35-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 8-2-07; DFW 67-2007(Temp), f. 8-9-07, cert. ef. 8-12-07 thru 9-30-07; DFW 76-2007(Temp), f. 8-17-07, cert. ef. 8-24-07 thru 9-30-07; DFW 84-2007(Temp), f. 9-5-07, cert. ef. 9-15-07 thru 9-30-07; DFW 87-2007(Temp), f. 9-10-07, cert. ef. 9-14-07 thru 10-28-07; DFW 90-2007(Temp), f. 9-19-07, cert. ef. 9-20-07 thru 10-31-07; Administrative correction 11-17-07; DFW 57-2008(Temp), f. 5-30-08, cert. ef. 6-1-08 thru 7-31-08; DFW 81-2008(Temp), f. 7-11-08, cert. ef. 8-2-08 thru 9-30-08; DFW 92-2008(Temp), f. & cert. ef. 8-11-08 thru 9-30-08; DFW 101-2008(Temp), f. 8-25-08, cert. ef. 8-29-08 thru 9-30-08; DFW 107-2008(Temp), f. 9-5-08, cert. ef. 9-7-08 thru 12-31-08; DFW 111-2008(Temp), f. & cert. ef. 9-16-08 thru 12-31-08; DFW 120-2008(Temp), f. 9-25-08, cert. ef. 9-27-08 thru 12-31-08

Rule Caption: Amend open season for Chinook salmon Chetco river area.

Adm. Order No.: DFW 121-2008(Temp)

Filed with Sec. of State: 10-2-2008

Certified to be Effective: 10-2-08 thru 12-31-08

Notice Publication Date:

Rules Amended: 635-013-0007

Subject: Amending rule to extend open season dates for Chinook salmon sport angling to include October 11 in the Chetco river area south of the north shore of Twin Rocks (42°05'36" N. Lat.) to the Oregon/ California border (42°0'0" N. Lat.) and seaward three nautical miles offshore.

Rules Coordinator: Therese Kucera—(503) 947-6033

ADMINISTRATIVE RULES

635-013-0007

Special South Coast Seasons

In addition to the open seasons prescribed in OAR 635-013-0005 there are open seasons for Chinook salmon as follows:

(1) Elk River Area:

(a) From November 1–30 in the area south of Cape Blanco (42°50'20" N. Lat.) and north of Humbug Mountain (42°40'30" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described for the Elk River Area in section (1)(a) of this rule it is *unlawful* to take Chinook salmon less than 24 inches in length. In the aggregate combined with other open areas in the Marine, Northwest, and Southwest Zones (including terminal areas and inland fisheries): 2 adult Chinook salmon per day, only 1 of which may be a non fin clipped Chinook, 20 per year of which only 5 may be non fin clipped Chinook per season Aug. 1–Dec. 31. It is *unlawful* to use multipoint or barbed hooks.

(2) Chetco River Area:

(a) From October 1–4, and October 11 (250 Chinook goal), in an area south of the north shore of Twin Rocks (42°05'36" N. Lat.) to the Oregon/California border (42°00'00" N. Lat.) and seaward three nautical miles offshore.

(b) During the seasons described in section (2)(a) of this rule it is *unlawful* to take Chinook salmon less than 24 inches in length. No more than one Chinook salmon may be retained per day and no more than four fish may be retained during the October season. In the aggregate combined with other open areas in the Marine, Northwest, and Southwest Zones (including terminal areas and inland fisheries): 2 adult Chinook salmon per day and 20 adult Chinook salmon per year of which only 5 may be non fin clipped Chinook per season Aug. 1–Dec. 31. It is *unlawful* to use multipoint or barbed hooks.

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

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 25-1982, f. & ef. 4-30-82; FWC 62-1983(Temp), f. & ef. 11-1-83; FWC 69-1984(Temp), f. & ef. 10-2-84; FWC 59-1985(Temp), f. & ef. 9-13-85; FWC 59-1986(Temp), f. & ef. 9-19-86; FWC 77-1986(Temp), f. & ef. 11-26-86; FWC 76-1987, f. & ef. 9-15-87; FWC 84-1988, f. & cert. ef. 9-9-88; FWC 83-1989, f. & cert. ef. 9-16-89; FWC 86-1990, f. & cert. ef. 9-1-90; FWC 42-1991, f. & cert. ef. 5-1-91; FWC 101-1992, f. & cert. ef. 10-1-92; FWC 114-1992(Temp), f. & cert. ef. 10-27-92; FWC 62-1993, f. & cert. ef. 10-1-93; FWC 56-1994, f. & cert. ef. 9-1-94; FWC 78-1994(Temp), f. & cert. ef. 10-21-94; FWC 81-1995, f. & cert. ef. 9-29-95; FWC 84-1995(Temp), f. & cert. ef. 10-13-95; FWC 86-1995(Temp), f. & cert. ef. 10-20-95; FWC 10-21-95; FWC 56-1996, f. & cert. ef. 9-27-96; FWC 10-1-96; FWC 30-1997, f. & cert. ef. 5-5-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. & cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 67-2008(Temp), f. & cert. ef. 6-20-08; cert. ef. 8-1-08 thru 12-31-08; DFW 121-2008(Temp), f. & cert. ef. 10-2-08 thru 12-31-08

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Rule Caption: Extension of Treaty Indian Fall Salmon Season In the Columbia River and Tributaries.

Adm. Order No.: DFW 122-2008(Temp)

Filed with Sec. of State: 9-29-2008

Certified to be Effective: 9-29-08 thru 10-31-08

Notice Publication Date:

Rules Amended: 635-041-0075

Rules Suspended: 635-041-0075(T)

Subject: Amended rule adds a 3.5 day (84 hours) fishing period to the Tribal Indian fall commercial gill net salmon season in the Columbia River and tributaries. The new fishing period begins at 6:00 a.m. Tuesday, September 30, 2008 and extends through 6:00 p.m. Friday, October 3, 2008. Modifications are consistent with action taken September 29, 2008 by the Columbia River Compact agencies of Oregon and Washington in concert with the Columbia River Inter-Tribal Fish Commission.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0075

Fall Salmon Season

(1) Chinook, coho, sockeye, steelhead, walleye, carp, and shad may be taken by gill net for commercial purposes from the mainstem Columbia River, Zone 6 during the following periods:

6:00 a.m. Tuesday, September 9 through 6:00 p.m. Friday, September 12, 2008 (84 hours);

6:00 a.m. Tuesday, September 16 through 6:00 p.m. Friday, September 19, 2008 (84 hours);

6:00 a.m. Monday, September 22 through 6:00 p.m. Friday, September 26, 2008 (108 hours);

6:00 a.m. Tuesday, September 30 through 6:00 p.m. Friday, October 3, 2008 (84 hours);

(a) No minimum mesh size restriction is in effect.

(b) Allowable sales include Chinook, coho, sockeye, steelhead, walleye, carp, and shad.

(c) Sturgeon may not be sold. However, white sturgeon between 48 and 60 inches in length taken from The Dalles and John Day pools may be kept for subsistence use. White sturgeon between 42 and 60 inches in length taken from the Bonneville Pool may be kept for subsistence use. White sturgeon caught in subsistence fisheries downstream of Bonneville Dam must be released immediately unharmed.

(d) Closed areas are set forth in OAR 635-041-0045, including the closure at the mouth of Spring Creek are in effect.

(2) Sales of fish caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake/Little White Salmon River; and Big White Salmon River, including the Yakama Nation subsistence fishery on the Washington shore downstream of Bonneville Dam, are allowed during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods, subject to restrictions as specified in section 1 above.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982 (Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984 (Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988 (Temp), f. & cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989 (Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. & cert. ef. 9-10-90; FWC 98-1990(Temp), f. & cert. ef. 9-14-90; FWC 85-1991, f. & cert. ef. 8-7-91; cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. & cert. ef. 9-17-91; cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. & cert. ef. 9-2-92; FWC 87-1992(Temp), f. & cert. ef. 9-4-92; cert. ef. 9-7-92; FWC 91-1992(Temp), f. & cert. ef. 9-16-92; cert. ef. 9-17-92; FWC 96-1992(Temp), f. & cert. ef. 9-22-92; cert. ef. 9-23-92; FWC 105-1992(Temp), f. & cert. ef. 10-2-92; cert. ef. 10-5-92; FWC 107-1992 (Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. & cert. ef. 8-6-93; cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. & cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. & cert. ef. 8-26-94; cert. ef. 8-29-94; FWC 61-1994(Temp), f. & cert. ef. 9-7-94; cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. & cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. & cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. & cert. ef. 8-29-96; cert. ef. 9-2-96; FWC 51-1996(Temp), f. & cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. & cert. ef. 8-29-97; cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. & cert. ef. 9-17-97; DFW 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. & cert. ef. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. & cert. ef. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. & cert. ef. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. & cert. ef. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. & cert. ef. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. & cert. ef. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. & cert. ef. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. ef. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. & cert. ef. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. & cert. ef. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. & cert. ef. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. & cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. & cert. ef. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. & cert. ef. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. & cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. & cert. ef. 9-12-03 thru 12-31-03; DFW 97-2003(Temp), f. & cert. ef. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. & cert. ef. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. & cert. ef. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. & cert. ef. 10-12-04 cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction 2-18-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 71-2006(Temp), f. & cert. ef. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. & cert. ef. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. & cert. ef. 9-11-06 thru 12-31-06; DFW 101-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 107-2006(Temp), f. & cert. ef. 9-28-06, cert. ef. 10-3-06 thru 12-31-06; DFW 115-2006(Temp), f. & cert. ef. 10-13-06, cert. ef. 10-15-06 thru 12-31-06; Administrative correction 1-16-07; DFW 60-2007(Temp), f. & cert. ef. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; DFW 77-2007(Temp), f. & cert. ef. 8-17-07, cert. ef. 8-22-07 thru 12-31-07; DFW 88-2007(Temp), f. & cert. ef. 9-11-07 thru 12-31-07; DFW 95-2007(Temp), f. & cert. ef. 9-21-07, cert. ef. 9-25-07 thru 12-31-07; DFW 100-2007(Temp), f. & cert. ef. 9-28-07,

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cert. ef. 10-3-07 thru 12-31-07; DFW 110-2007(Temp), f. 10-16-07, cert. ef. 10-20-07 thru 12-31-07; DFW 106-2008(Temp), f. 9-4-08, cert. ef. 9-6-08 thru 10-31-08; DFW 109-2008(Temp), f. 9-12-08, cert. ef. 9-15-08 thru 10-31-08; DFW 112-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 10-31-08; DFW 117-2008(Temp), f. & cert. ef. 9-22-08 thru 10-31-08; DFW 122-2008(Temp), f. & cert. ef. 9-29-08 thru 10-31-08

Rule Caption: Revised Nearshore Species Cumulative Trip Limits for the Commercial Nearshore Fishery.

Adm. Order No.: DFW 123-2008(Temp)

Filed with Sec. of State: 9-30-2008

Certified to be Effective: 10-2-08 thru 12-31-08

Notice Publication Date:

Rules Amended: 635-004-0033

Rules Suspended: 635-004-0033(T)

Subject: This amended rule adjusts downward the cumulative trip limits for Black/Blue Rockfish permitted vessels, with or without a Nearshore Limited Entry endorsement, in fishing period five (September through October) from 1200 to 1000 pounds with a 15 pound daily trip limit beginning October 2nd, and in fishing period six (November through December) from 800 to 200 pounds and a daily trip limit of 15 pounds to immediately impact Black/Blue rockfish harvest rates under the Black/Blue Rockfish and Nearshore endorsed permits. Current projections based on previously established harvest rates indicate a possible early attainment of commercial harvest caps and a possible early closure of the entire Nearshore fishery.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-004-0033

Groundfish Restrictions

(1) The season for most species of ocean food fish is open year-round, until catch quotas are met (where applicable). Regulations for the following species or species groups of ocean food fish change throughout the season and the Oregon Administrative Rules and federal regulations should be consulted before fishing:

- (a) Minor Shelf Rockfish;
- (b) Minor Slope Rockfish;
- (c) Black and Yellow Rockfish;
- (d) Brown Rockfish;
- (e) Calico Rockfish;
- (f) China Rockfish;
- (g) Copper Rockfish;
- (h) Gopher Rockfish;
- (i) Grass Rockfish;
- (j) Kelp Rockfish;
- (k) Olive Rockfish;
- (l) Treefish;
- (m) Black Rockfish;
- (n) Blue Rockfish;
- (o) Cabezon;
- (p) Canary Rockfish;
- (q) Greenling;
- (r) Tiger Rockfish;
- (s) Vermilion Rockfish;
- (t) Widow Rockfish;
- (u) Yelloweye Rockfish;
- (v) Yellowtail Rockfish;
- (w) Darkblotched Rockfish;
- (x) Pacific Ocean Perch;
- (y) Longspine Thornyhead;
- (z) Shortspine Thornyhead;
- (aa) Arrowtooth Flounder;
- (bb) Dover Sole;
- (cc) Petrale Sole;
- (dd) Rex Sole;
- (ee) Other Flatfish;
- (ff) Lingcod;
- (gg) Sablefish;
- (hh) Pacific Whiting.

(2) For the purpose of this rule, "Other nearshore rockfish" means: black and yellow (*Sebastes chrysomelas*); brown (*S. auriculatus*); calico (*S. dalli*); China (*S. nebulosus*); copper (*S. caurinus*); gopher (*S. carnatus*); grass (*S. rastelliger*); kelp (*S. atrovirens*); olive (*S. serranoides*); quillback (*S. maliger*); and treefish (*S. sericeus*).

(3) For the purpose of this rule a "commercial harvest cap" is defined as the total fishery-related mortality for a given species, or species group, that may occur in a single calendar year in Oregon commercial fisheries.

For 2008, the commercial harvest cap for black rockfish is 100.6 metric tons.

(4) For the purpose of this rule a "commercial landing cap" is defined as the total landed catch of a given species, or species group, that may be taken in a single calendar year in Oregon commercial fisheries. For 2008, the commercial landing caps are:

- (a) Black rockfish and blue rockfish combined of 104.6 metric tons.
- (b) Other nearshore rockfish, 12.0 metric tons.
- (c) Cabezon, 31.3 metric tons.
- (d) Greenling, 23.4 metric tons.

(5) For the purpose of this rule, the periods to which cumulative trip limits apply are: January through February (period 1); March through April (period 2); May through June (period 3); July through August (period 4); September through October (period 5); and November through December (period 6).

(6) For black and blue rockfish combined, no vessel may land more than:

- (a) 600 pounds in period 1;
- (b) 800 pounds in period 2;
- (c) 1600 pounds in period 3;
- (d) 1200 pounds in period 4;
- (e) 15 pounds per day not to exceed 1000 pounds in period 5; and
- (f) 15 pounds per day not to exceed 200 pounds per month in November and December.

(7) In each period, no vessel may land more than:

- (a) 700 pounds of other nearshore rockfish, combined;
- (b) 2,500 pounds of cabezon; or
- (c) 450 pounds of greenling species.

Stat. Auth.: ORS 506.109 & 506.119

Stats. Implemented: ORS 506.129

Hist.: FWC 73-1982(Temp), f. & ef. 10-27-82; FWC 1-1983 (Temp), f. & ef. 1-6-83; FWC 10-1983, f. & ef. 3-1-83; FWC 23-1983(Temp), f. & ef. 6-14-83; FWC 41-1983(Temp), f. & ef. 9-6-83; FWC 3-1984 f. & ef. 1-26-84; FWC 18-1984 (Temp), f. 5-4-84, ef. 5-6-84; FWC 36-1984(Temp), f. 7-31-84, ef. 8-1-84; FWC 1-1985(Temp), f. & ef. 1-4-85; FWC 5-1985, f. & ef. 2-19-85; FWC 18-1985(Temp), f. 4-26-85, ef. 4-27-85; FWC 52-1985(Temp), f. 8-30-85, ef. 9-1-85; FWC 65-1985 (Temp), f. & ef. 10-4-85; FWC 82-1985, f. 12-16-85, ef. 1-1-86; FWC 50-1986(Temp), f. & ef. 8-29-86; FWC 81-1986, f. 12-31-86, ef. 1-1-87; FWC 57-1987(Temp), f. & ef. 7-24-87; FWC 104-1987, f. 12-18-87, ef. 1-1-88; FWC 97-1988(Temp), f. & cert. ef. 1-6-88; FWC 103-1988, f. 12-29-88, cert. ef. 1-1-89; FWC 49-1989(Temp), f. & cert. ef. 7-26-89; FWC 69-1990 (Temp), f. 7-24-90, cert. ef. 7-25-90; FWC 122-1990, f. 11-26-90, cert. ef. 11-29-90; FWC 130-1990, f. 12-31-90, cert. ef. 1-1-91; FWC 48-1991(Temp), f. & cert. ef. 5-3-91; FWC 82-1991(Temp), f. 7-30-91, cert. ef. 7-31-91; FWC 83-1991, f. 8-1-91, cert. ef. 7-31-91; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 9-1992, f. 2-20-92, cert. ef. 2-21-92; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 6-1993, f. 1-28-93, cert. ef. 2-1-93; FWC 10-1993, f. & cert. ef. 2-10-93; FWC 1-1994, f. & cert. ef. 1-14-94; FWC 32-1994, f. & cert. ef. 6-3-94; FWC 44-1994, f. 7-26-94, cert. ef. 8-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 45-1995, f. & cert. ef. 6-1-95; FWC 94-1995(Temp), f. 12-29-95, cert. ef. 1-1-96; FWC 9-1996, f. 3-5-96, cert. ef. 3-8-96; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 119-2002(Temp), f. 10-24-02, cert. ef. 10-25-02 thru 12-31-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 14-2003(Temp), f. 2-20-03, cert. ef. 2-21-03 thru 8-19-03; DFW 25-2003, f. & cert. ef. 3-26-03; DFW 60-2003(Temp), f. 7-15-03, cert. ef. 7-16-03 thru 12-31-03; DFW 79-2003(Temp), f. & cert. ef. 8-18-03 thru 12-31-03; DFW 102-2003(Temp), f. 9-30-03, cert. ef. 10-1-03 thru 12-31-03; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 76-2004(Temp), f. 7-23-04, cert. ef. 7-28-04 thru 12-31-04; DFW 100-2004(Temp), f. & cert. ef. 9-28-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 120-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 31-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 82-2005(Temp), f. 7-29-05, cert. ef. 8-1-05 thru 12-31-05; DFW 86-2005(Temp), f. & cert. ef. 8-3-05 thru 12-31-05; DFW 119-2005(Temp), f. 10-10-05, cert. ef. 10-11-05 thru 12-31-05; DFW 135-2005(Temp), f. 11-30-05, cert. ef. 12-1-05 thru 12-31-05; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 50-2006(Temp), f. 6-28-06, cert. ef. 7-1-06 thru 12-27-06; DFW 83-2006(Temp), f. 8-10-06, cert. ef. 8-11-06 thru 2-6-07; DFW 108-2006(Temp), f. 9-29-06, cert. ef. 10-1-06 thru 12-31-06; DFW 133-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 83-2007(Temp), f. 8-31-07, cert. ef. 9-1-07 thru 12-31-07; DFW 120-2007(Temp), f. 10-30-07, cert. ef. 11-1-07 thru 12-31-07; DFW 123-2007(Temp), f. 11-26-07, cert. ef. 11-28-07 thru 12-31-07; DFW 128-2007, f. 12-13-07, cert. ef. 1-1-08; Administrative Correction 1-24-08; DFW 70-2008(Temp), f. 6-26-08, cert. ef. 7-1-08 thru 12-27-08; DFW 123-2008(Temp), f. 9-30-08, cert. ef. 10-2-08 thru 12-31-08

Rule Caption: Allow Chinook salmon retention in the Willamette River and tributaries.

Adm. Order No.: DFW 124-2008(Temp)

Filed with Sec. of State: 10-1-2008

Certified to be Effective: 10-2-08 thru 12-31-08

Notice Publication Date:

Rules Amended: 635-017-0090

Rules Suspended: 635-017-0090(T)

Subject: The amended rule will again allow the sport harvest of Chinook salmon in the Willamette River and tributaries per permanent regulation. These modifications allow sport anglers opportunities to harvest Chinook salmon as per permanent rule.

Rules Coordinator: Therese Kucera—(503) 947-6033

ADMINISTRATIVE RULES

635-017-0090

Inclusions and Modifications

(1) The **2008 Oregon Sport Fishing Regulations** provide requirements for the Willamette Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2008 Oregon Sport Fishing Regulations**.

(2) Pacific Lamprey Harvest:

(a) Pursuant to OAR 635-044-0130(1)(b), authorization from the Oregon Fish and Wildlife Commission must be in possession by individuals collecting or possessing Pacific lamprey for personal use. Permits are available from ODFW, 17330 SE Evelyn Street, Clackamas, OR 97015;

(b) Open fishing period is June 1 through July 31 from 7:00 A.M. to 6:00 P.M.; personal use harvest is permitted Friday through Monday each week. All harvest is prohibited Tuesday through Thursday; except personal use harvest is permitted on July 29 and July 30, 2008 from 7:00 A.M. to 6:00 P.M. daily;

(c) Open fishing area is the Willamette River at Willamette Falls on the east side of the falls only, excluding Horseshoe Area at the peak of the falls;

(d) Gear is restricted to hand or hand-powered tools only;

(e) Catch must be recorded daily on a harvest record card prior to leaving the open fishing area. Harvest record cards will be provided by ODFW. All harvest record cards must be returned to the ODFW Clackamas office by August 31 to report catch. Permit holders who do not return the harvest record cards by August 31 will be ineligible to receive a permit in the following year.

(f) Harvesters must allow sampling or enumeration of catches by ODFW personnel.

(3) Carmen Reservoir (Linn County) is open to angling for trout all year.

(a) The daily catch limit for trout is 5 per day, minimum length is 8 inches, only 1 trout over 20 inches in length may be taken per day.

(b) Use of bait is allowed.

(4) Effective February 1, 2008 there are no size restrictions or bag limits on trout or warmwater fish in Roslyn Lake. All other General Statewide and Willamette Zone regulations as provided in the **2008 Oregon Sport Fishing Regulations** apply.

(5) Effective September 17 through October 31, 2008 the daily bag limit for hatchery fin-clipped coho increases to 3 fish in the Clackamas and Sandy rivers. Effective September 17 through November 30, 2008 the daily bag limit for hatchery fin-clipped coho increases to 3 fish per day on Eagle Creek, a tributary of the Clackamas River.

(6) The daily bag limit described in section (6) above is a combined total for all open waters.

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

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert. ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & cert. ef. 3-19-99 thru 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 6-2001, f. & cert. ef. 3-1-01; DFW 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 46-2001(Temp), f. 6-8-01, cert. ef. 6-16-01 thru 12-13-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 95-2001(Temp), f. 9-27-01, cert. ef. 10-20-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02, cert. ef. 7-12-02 thru 12-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-11-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-

2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 33-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 48-2004(Temp), f. 5-26-04, cert. ef. 5-28-04 thru 11-23-04; DFW 69-2004(Temp), f. & cert. ef. 7-12-04 thru 11-23-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 24-2005, f. 4-15-05, cert. ef. 5-1-05; DFW 78-2005(Temp), f. 7-19-05, cert. ef. 7-21-05 thru 7-22-05; Administrative correction 8-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 36-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 121-2006(Temp), f. & cert. ef. 10-20-06 thru 12-31-06; DFW 32-2007, f. 5-14-07, cert. ef. 6-1-07; DFW 65-2007(Temp), f. & cert. ef. 8-6-07 thru 10-31-07; DFW 105-2007(Temp), f. 10-4-07, cert. ef. 10-6-07 thru 11-30-07; Administrative correction 12-20-07; DFW 134-2007, f. 12-26-07, cert. ef. 1-1-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 1-2008(Temp), f. & cert. ef. 1-9-08 thru 7-6-08; DFW 5-2008(Temp), f. 1-25-08, cert. ef. 2-1-08 thru 7-6-08; DFW 15-2008(Temp), f. 2-26-08, cert. ef. 3-1-08 thru 7-29-08; DFW 46-2008(Temp), f. 5-9-08, cert. ef. 5-12-08 thru 7-29-08; DFW 55-2008(Temp), f. 5-30-08, cert. ef. 6-2-08 thru 10-31-08; DFW 82-2008(Temp), f. 7-21-08, cert. ef. 7-29-08 thru 12-31-08; DFW 110-2008(Temp), f. 9-15-08, cert. ef. 9-17-08 thru 12-31-08; DFW 124-2008(Temp), f. 10-1-08, cert. ef. 10-2-08 thru 12-31-08

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Rule Caption: Extended Treaty Indian Fall Salmon Season In the Columbia River and Tributaries.

Adm. Order No.: DFW 125-2008(Temp)

Filed with Sec. of State: 10-6-2008

Certified to be Effective: 10-7-08 thru 10-31-08

Notice Publication Date:

Rules Amended: 635-041-0075

Rules Suspended: 635-041-0075(T)

Subject: Amended rule adds a 3.5 day (84 hours) fishing period to the Tribal Indian fall commercial gill net salmon season in the Columbia River and tributaries. The new fishing period begins at 6:00 a.m. Tuesday, October 7, 2008 and extends through 6:00 p.m. Friday, October 10, 2008. Modifications are consistent with action taken October 6, 2008 by the Columbia River Compact agencies of Oregon and Washington in concert with the Columbia River Inter-Tribal Fish Commission.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0075

Fall Salmon Season

(1) Chinook, coho, sockeye, steelhead, walleye, carp, and shad may be taken by gill net for commercial purposes from the mainstem Columbia River, Zone 6 during the following periods:

6:00 a.m. Tuesday, September 9 through 6:00 p.m. Friday, September 12, 2008 (84 hours);

6:00 a.m. Tuesday, September 16 through 6:00 p.m. Friday, September 19, 2008 (84 hours);

6:00 a.m. Monday, September 22 through 6:00 p.m. Friday, September 26, 2008 (108 hours);

6:00 a.m. Tuesday, September 30 through 6:00 p.m. Friday, October 3, 2008 (84 hours);

6:00 a.m. Tuesday, October 7 through 6:00 p.m. Friday, October 10, 2008 (84 hours).

(a) No minimum mesh size restriction is in effect.

(b) Allowable sales include Chinook, coho, sockeye, steelhead, wall-eye, carp, and shad.

(c) Sturgeon may not be sold. However, white sturgeon between 48 and 60 inches in length taken from The Dalles and John Day pools may be kept for subsistence use. White sturgeon between 42 and 60 inches in length taken from the Bonneville Pool may be kept for subsistence use. White sturgeon caught in subsistence fisheries downstream of Bonneville Dam must be released immediately unharmed.

(d) Closed areas are set forth in OAR 635-041-0045, except for the closure at the mouth of Spring Creek within a radius of 50 feet of the Spring Creek Hatchery fishway, are in effect.

(2) Sales of fish caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake/Little White Salmon River; and Big White Salmon River, including the Yakama Nation subsistence fishery on the Washington shore downstream of Bonneville Dam, are allowed during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods, subject to restrictions as specified in section 1 above.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & cert. ef. 8-2-79; FWC 36-1979(Temp), f. & cert. ef. 8-22-79; FWC 47-1979(Temp), f. & cert. ef. 9-21-79; FWC 44-1980(Temp), f. & cert. ef. 8-22-80; FWC 46-1980(Temp), f. & cert. ef. 9-13-80; FWC 33-1981(Temp), f. & cert. ef. 9-15-81; FWC 58-1982(Temp), f. & cert. ef. 8-27-82; FWC 62-1982(Temp), f. & cert. ef. 9-7-82; FWC 63-1982(Temp), f. & cert. ef. 9-14-82; FWC 75-1982(Temp), f. & cert. ef. 10-29-82; FWC 36-1983, f. & cert. ef. 8-18-83; FWC 49-1983(Temp), f. & cert. ef. 9-26-83; FWC 51-1983(Temp), f. & cert. ef. 9-30-83; FWC 55-1983(Temp), f. & cert. ef. 10-4-83; FWC 46-1984, f. & cert. ef. 8-30-84; FWC 55-1984(Temp), f. & cert. ef. 9-10-84; FWC 58-1984(Temp), f. & cert. ef. 9-17-84; FWC 61-1984(Temp), f. & cert. ef. 9-21-84; FWC 70-1984(Temp), f. & cert. ef. 10-9-84; FWC 47-1985, f. & cert. ef. 8-23-85; FWC 60-1985(Temp), f. & cert. ef. 9-13-85; FWC 63-1985(Temp), f. & cert. ef. 9-24-85; FWC 42-1986, f. & cert. ef. 8-15-86; FWC 53-1986(Temp), f. & cert. ef. 9-4-86; FWC 54-1986(Temp), f. & cert. ef. 9-5-86; FWC 57-1986(Temp), f. & cert. ef. 9-11-86; FWC 60-1986(Temp), f. & cert. ef. 9-26-86; FWC 62-1986(Temp), f. & cert. ef. 10-2-86; FWC 63-1987, f. & cert. ef. 8-7-87; FWC 74-1987(Temp), f. & cert. ef. 9-4-87; FWC 75-1987

ADMINISTRATIVE RULES

(Temp), f. & cert. ef. 9-1-87; FWC 78-1987(Temp), f. & cert. ef. 9-15-87; FWC 80-1987(Temp), f. & cert. ef. 9-18-87; FWC 87-1987(Temp), f. & cert. ef. 10-9-87; FWC 89-1987(Temp), f. & cert. ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988(Temp), f. & cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989(Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. & cert. ef. 8-7-90; FWC 98-1990(Temp), f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. & cert. ef. 9-10-90; FWC 98-1990(Temp), f. & cert. ef. 9-17-90; FWC 85-1991, f. & cert. ef. 8-7-91, cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. & cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. & cert. ef. 9-2-92; FWC 87-1992(Temp), f. & cert. ef. 9-7-92; FWC 91-1992(Temp), f. & cert. ef. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. & cert. ef. 9-23-92; FWC 105-1992(Temp), f. & cert. ef. 10-2-92, cert. ef. 10-5-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. & cert. ef. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. & cert. ef. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. & cert. ef. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. & cert. ef. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. & cert. ef. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. & cert. ef. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. & cert. ef. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. & cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. & cert. ef. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. & cert. ef. 9-16-97, cert. ef. 9-17-97; FWC 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; FWC 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; FWC 77-1998(Temp), f. & cert. ef. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; FWC 79-1998(Temp), f. & cert. ef. 9-22-98 thru 9-25-98; FWC 80-1998(Temp), f. & cert. ef. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; FWC 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; FWC 62-1999(Temp), f. & cert. ef. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; FWC 65-1999(Temp), f. & cert. ef. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; FWC 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; FWC 72-1999(Temp), f. & cert. ef. 9-22-99 thru 10-22-99; FWC 74-1999(Temp), f. & cert. ef. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; FWC 50-2000(Temp), f. & cert. ef. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; FWC 60-2000(Temp), f. & cert. ef. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; FWC 61-2000(Temp), f. & cert. ef. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; FWC 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; FWC 87-2001(Temp), f. & cert. ef. 9-11-01 thru 9-15-01; FWC 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; FWC 94-2001(Temp), f. & cert. ef. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; FWC 100-2001(Temp), f. & cert. ef. 10-17-01 thru 12-31-01; FWC 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; FWC 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; FWC 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; FWC 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; FWC 113-2002(Temp), f. & cert. ef. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; FWC 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; FWC 81-2003(Temp), f. & cert. ef. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; FWC 91-2003(Temp), f. & cert. ef. 9-12-03, cert. ef. 9-16-03 thru 12-31-03; FWC 97-2003(Temp), f. & cert. ef. 9-24-03 thru 12-31-03; FWC 101-2003(Temp), f. & cert. ef. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; FWC 103-2003(Temp), f. & cert. ef. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; FWC 104-2003(Temp), f. & cert. ef. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; FWC 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; FWC 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; FWC 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; FWC 104-2004(Temp), f. & cert. ef. 10-12-04, cert. ef. 10-13-04 thru 12-31-04; FWC 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; FWC 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; FWC 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; FWC 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; FWC 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; FWC 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; FWC 71-2006(Temp), f. & cert. ef. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; FWC 86-2006(Temp), f. & cert. ef. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; FWC 94-2006(Temp), f. & cert. ef. 9-8-06, cert. ef. 9-11-06 thru 12-31-06; FWC 101-2006(Temp), f. & cert. ef. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; FWC 107-2006(Temp), f. & cert. ef. 9-28-06, cert. ef. 10-3-06 thru 12-31-06; FWC 115-2006(Temp), f. & cert. ef. 10-13-06, cert. ef. 10-15-06 thru 12-31-06; Administrative correction 1-16-07; FWC 60-2007(Temp), f. & cert. ef. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; FWC 77-2007(Temp), f. & cert. ef. 8-17-07, cert. ef. 8-22-07 thru 12-31-07; FWC 88-2007(Temp), f. & cert. ef. 9-10-07, cert. ef. 9-11-07 thru 12-31-07; FWC 95-2007(Temp), f. & cert. ef. 9-21-07, cert. ef. 9-25-07 thru 12-31-07; FWC 100-2007(Temp), f. & cert. ef. 9-28-07, cert. ef. 10-3-07 thru 12-31-07; FWC 110-2007(Temp), f. & cert. ef. 10-16-07, cert. ef. 10-20-07 thru 12-31-07; FWC 106-2008(Temp), f. & cert. ef. 9-4-08, cert. ef. 9-6-08 thru 10-31-08; FWC 109-2008(Temp), f. & cert. ef. 9-12-08, cert. ef. 9-15-08 thru 10-31-08; FWC 112-2008(Temp), f. & cert. ef. 9-17-08, cert. ef. 9-18-08 thru 10-31-08; FWC 117-2008(Temp), f. & cert. ef. 9-22-08 thru 10-31-08; FWC 122-2008(Temp), f. & cert. ef. 9-29-08 thru 10-31-08; FWC 125-2008(Temp), f. & cert. ef. 10-7-08 thru 10-31-08

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Rule Caption: Amend rules related to reinstating preference points.

Adm. Order No.: DFW 126-2008(Temp)

Filed with Sec. of State: 10-6-2008

Certified to be Effective: 10-6-08 thru 4-4-09

Notice Publication Date:

Rules Amended: 635-060-0046

Subject: The Director may reinstate the preference points of a person who the Director determines did not or will not participate in a controlled hunt because of circumstances beyond the person's control; or tragic personal circumstances.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-060-0046

Lost Tags and Tag Exchanges

(1) A fee of \$5.00 and a \$1.50 license agent fee is charged to replace or exchange a tag or permit. Duplicates and exchanges may be obtained only through the Salem headquarters, regional offices of the department, and designated district offices. Exception: Replacement controlled hunt tags or permits will be issued at no charge only through the Salem head-

quarters or regional office of the department if the department determines that the person never received the original controlled tag or permit mailed from the Salem headquarters office.

(2) A Controlled Buck Deer Tag or Controlled Elk Tag may be exchanged for a general season tag before the opening date of the season for which either tag is valid.

(3) No controlled hunt tag shall be exchanged for another controlled hunt tag, except as described in 635-060-0008(5) and 635-075-0015(3).

(4) A Controlled Antlerless Deer Tag shall not be exchanged.

(5) In the event of the death of a successful controlled hunt applicant before the start of the season for which the tag or permit was issued, the tags of the deceased may be issued to a family member as defined by OAR 635-045-0002. Tag or permit transfer shall require a copy of the death certificate and the original controlled hunt tag or permit, and must be requested by the legal heir to the deceased which shall be presumed by possession of the tag or permit and death certificate.

(6) A "leftover" controlled hunt tag may only be exchanged for a general season tag, but only if the person does not already possess a tag authorized by OAR 635-065-0015(4)(a), (b) or (c) or 635-0065-0015(5)(a), (b), (c), (d), (e), (f), or (g).

(7) The Commission shall accommodate Oregon residents who have lost preference points because of being called to active military service after June 1, 2002.

(a) The Commission shall accommodate the following individuals called to service at any location: Oregon National Guard.

(b) The Commission shall accommodate the following Oregon residents with military operational commitments: regular members of the United States Armed Forces (Army, Navy, Air Force, Marines, Coast Guard), members of the United States military reserves, and members of the National Guard.

(c) The Commission authorizes the Director to make such accommodations by:

(A) Reinstating preference points existing for a series, plus an additional point for participating in the draw.

(B) Reinstating preference points lost after two consecutive years of not applying for a controlled hunt in that series.

(d) Individuals seeking accommodation pursuant to this rule (or immediate family members acting on their behalf) must make a request in writing or in person to the Salem headquarters office. Each request must include a letter from a supervising officer on official unit letterhead verifying operational commitments.

(8)(a) The Director may reinstate the preference points of a person who the Director determines did not or will not participate in a controlled hunt because of:

(A) Circumstances beyond the person's control; or

(B) Tragic personal circumstances.

(b) "Tragic personal circumstances" means:

(A) Death or life-threatening injury or illness in the person's immediate family; or

(B) The person's own serious injury or illness, which results in the person's hospitalization. The person need not be hospitalized during the hunt; this rule also applies if preparation for surgery or recovery after hospitalization renders the person incapable of participating in the hunt.

(c) To apply for reinstatement, the person must provide a sworn affidavit providing adequate details and must return the unused tag if it was purchased or a signed affidavit stating the tag was not used. When relying upon tragic personal circumstances, the person must also provide a sworn affidavit by a physician. When relying upon circumstances beyond the person's control, the person must also provide documentation of the circumstances (such as an accident report or affidavit from an employer).

(d) "Circumstances beyond the person's control" excludes complaints about the quality of a hunt (including, but not limited to, road closures, inclement weather and work being conducted in the hunt area).

(e) If the Director decides that the person does not qualify for reinstatement, the person may appeal that decision to the Oregon Fish and Wildlife Commission (Commission). The Commission must review the Director's decision within 60 days after receipt of appeal. The Commission will not take verbal testimony from the person, and the Commission's decision is final.

(f) If the Director or Commission reinstates a person's preference point under this subsection, the person is not awarded a new point for being classified as "unsuccessful" and is not entitled to a refund of license or tag fees.

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

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

Hist.: FWC 118, f. & cert. ef. 6-3-77; FWC 32-1978, f. & cert. ef. 6-30-78; FWC 29-1979, f. & cert. ef. 8-2-79; FWC 33-1980, f. & cert. ef. 6-30-80; FWC 7-1981, f. & cert. ef. 6-1-81; FWC 10-1981, f. & cert. ef. 3-31-81; FWC 22-1981, f. & cert. ef. 6-29-81; FWC 21-1982, f. & cert. ef. 3-31-82; FWC 38-1982, f. & cert. ef. 6-25-82; FWC 43-1985, f. & cert. ef. 8-22-85; FWC 35-1986, f. & cert. ef. 8-7-86; FWC 11-1987, f. & cert. ef. 3-6-87; FWC 40-1987, f. & cert. ef. 7-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-13-88; FWC 48-1989, f. & cert. ef. 7-25-89; FWC 18-1991, f. & cert. ef. 3-12-91; FWC 55-1992(Temp), f. & cert. ef. 7-22-92, cert. ef. 7-24-92; FWC 36-1993, f. &

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cert. ef. 6-14-93; FWC 46-1993, f. & cert. ef. 8-4-93; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 94-1994, f. & cert. ef. 12-22-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 52-2001(Temp) f. & cert. ef. 6-27-01 thru 12-24-01; DFW 13-2002, f. & cert. ef. 2-12-02; DFW 34-2002, f. & cert. ef. 4-18-02; DFW 36-2002(Temp), f. & cert. ef. 4-22-02 thru 10-19-02; DFW 50-2002(Temp), f. & cert. ef. 5-16-02 thru 11-12-02; DFW 29-2003(Temp), f. & cert. ef. 4-9-03 thru 10-1-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 105-2004(Temp), f. & cert. ef. 10-13-04 thru 11-15-04; DFW 107-2004(Temp), f. & cert. ef. 10-18-04 thru 11-27-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 26-2005, f. & cert. ef. 4-20-05; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 93-2007(Temp), f. & cert. ef. 9-26-07 thru 3-23-08; Administrative correction 4-23-08; DFW 126-2008(Temp), f. & cert. ef. 10-6-08 thru 4-4-09

Rule Caption: Columbia River Late Fall Commercial Gill Net Chinook Salmon Fishery.

Adm. Order No.: DFW 127-2008(Temp)

Filed with Sec. of State: 10-7-2008

Certified to be Effective: 10-8-08 thru 12-31-08

Notice Publication Date:

Rules Amended: 635-042-0060

Rules Suspended: 635-042-0060(T)

Subject: Amended rule implements two new fishing periods in the Columbia River for the commercial harvest, retention and sales of Chinook salmon and white sturgeon in Zones 4–5 beginning October 8, 2008. The proposed season provides the commercial gill net fleet opportunity to harvest part of their pre-season allocation. Revisions are consistent with action taken October 7, 2008 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0060

Late Fall Salmon Season

(1) Salmon and white sturgeon may be taken by gill nets for commercial purposes from the Columbia River during the open fishing periods and areas identified in sections (2) through (10) below. Retention of green sturgeon is prohibited.

(a) In sections (2), (3), (4) and (6) below: Elokomin-B, Abernathy, Cowlitz, Kalama-B, Lewis-B*, Sandy and Washougal river sanctuaries are in effect. *Lewis-B includes all of the area from the upper boundary of the Lewis-B sanctuary downstream to a line projected from the red navigation Marker 62 at the head of Deer Island, Oregon, across to the green navigation Marker 63 at Martin Island, Washington.

(b) In sections (5) and (7) thru (10) below: Lewis-B*, Sandy and Washougal river sanctuaries are in effect. *Lewis-B includes all of the area from the upper boundary of the Lewis-B sanctuary downstream to a line projected from the red navigation Marker 62 at the head of Deer Island, Oregon, across to the green navigation Marker 63 at Martin Island, Washington.

(c) In sections (2) through (8) below: a maximum of ten white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) and the weekly aggregate white sturgeon limit applies to possession and sales in the Columbia River mainstem only. The Columbia River Select Areas are currently closed to the retention of white sturgeon.

(d) In sections (9) and (10) below: a maximum of three white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) and the weekly aggregate white sturgeon limit applies to possession and sales in the Columbia River mainstem only. The Columbia River Select Areas are currently closed to the retention of white sturgeon.

(e) In sections (3) through (10) below: 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 0.375-inches or greater.

(2) From 7:00 a.m. to 7:00 p.m. (12 hours) Thursday, September 18, 2008 in Zones 1-5.

(a) Gear is restricted to gill nets with a 9-inch minimum and 9.75-inch maximum mesh size.

(3) From 7:00 p.m. Sunday, September 21 to 7:00 a.m. Monday, September 22, 2008 (12 hours) in Zones 1 5.

(a) Gear is restricted to gill nets with a 8-inch minimum and 9.75-inch maximum mesh size.

(4) From 9:00 p.m. Tuesday, September 23 to 7:00 a.m. Wednesday, September 24, 2008 (10 hours) in Zones 4 5.

(a) Gear is restricted to gill nets with a 8-inch minimum and 9.75-inch maximum mesh size.

(5) From 7:00 p.m. Wednesday, September 24 to 7:00 a.m. Thursday, September 25, 2008 (12 hours) in Zones 4 5.

(a) Gear is restricted to gill nets with a 8-inch minimum mesh size.
(6) From 7:00 a.m. to 7:00 p.m. (12 hours) Thursday, September 25, 2008 in Zones 1-5.

(a) Gear is restricted to gill nets with a 9-inch minimum and 9.75-inch maximum mesh size.

(7) From 7:00 p.m. Thursday, September 25 to 7:00 a.m. Friday, September 26, 2008 (12 hours) in Zones 4 5.

(a) Gear is restricted to gill nets with a 8-inch minimum mesh size.

(8) Nightly from 7:00 p.m. to 7:00 a.m. (12 hours) beginning Sunday, September 28 through Thursday, October 3, 2008 in Zones 4 5.

(a) Gear is restricted to gill nets with a 8-inch minimum mesh size.

(9) From 7:00 p.m. Wednesday, October 8 to 7:00 a.m. Thursday, October 9, 2008 (12 hours) in Zones 4 5.

(a) Gear is restricted to gill nets with a 8-inch minimum mesh size.

(10) From 7:00 p.m. Thursday, October 9 to 7:00 a.m. Friday, October 10, 2008 (12 hours) in Zones 4 5.

(a) Gear is restricted to gill nets with a 8-inch minimum mesh size.

Stat. Auth.: ORS 496.118, 506.109

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 40-1979, f. & cert. ef. 9-10-79; FWC 45-1979(Temp), f. & cert. ef. 9-21-79; FWC 52-1979(Temp), f. & cert. ef. 11-2-79; FWC 48-1980(Temp), f. & cert. ef. 9-19-80; FWC 51-1980(Temp), f. & cert. ef. 9-22-80; FWC 55-1980(Temp), f. & cert. ef. 9-26-80; FWC 56-1980(Temp), f. & cert. ef. 9-29-80; FWC 58-1980(Temp), f. & cert. ef. 10-17-80; FWC 37-1981(Temp), f. & cert. ef. 9-24-81; FWC 38-1981(Temp), f. & cert. ef. 9-29-81; FWC 69-1982(Temp), f. & cert. ef. 9-30-82; FWC 72-1982(Temp), f. & cert. ef. 10-20-82; FWC 56-1983(Temp), f. & cert. ef. 10-5-83; FWC 54-1984(Temp), f. & cert. ef. 9-10-84; FWC 59-1984(Temp), f. & cert. ef. 9-18-84; FWC 66-1984(Temp), f. & cert. ef. 9-22-84; FWC 68-1984(Temp), f. & cert. ef. 10-2-84; FWC 58-1985(Temp), f. & cert. ef. 9-13-85; FWC 62-1985(Temp), f. & cert. ef. 9-24-85; FWC 66-1985(Temp), f. & cert. ef. 10-11-85; FWC 54-1986(Temp), f. & cert. ef. 9-5-86; FWC 64-1986(Temp), f. & cert. ef. 10-3-86; FWC 67-1986(Temp), f. & cert. ef. 10-17-86; FWC 74-1987(Temp), f. & cert. ef. 9-4-87; FWC 75-1987(Temp), f. & cert. ef. 9-11-87; FWC 80-1987(Temp), f. & cert. ef. 9-18-87; FWC 87-1987(Temp), f. & cert. ef. 10-9-87; FWC 91-1987(Temp), f. & cert. ef. 10-16-87; FWC 85-1988(Temp), f. & cert. ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 10-7-88; FWC 100-1988(Temp), f. 10-21-88, cert. ef. 10-24-88; FWC 94-1989(Temp), f. 9-15-89, cert. ef. 9-17-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989(Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. & cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 10-8-90; FWC 105-1991, f. & cert. ef. 9-20-91; FWC 118-1991, f. & cert. ef. 10-4-91; FWC 122-1991(Temp), f. & cert. ef. 10-18-91; FWC 129-1991(Temp), f. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-22-92; FWC 100-1992(Temp), f. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 109-1992(Temp), f. 10-19-92, cert. ef. 10-20-92; FWC 110-1992(Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC 64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-1997(Temp), f. & cert. ef. 11-3-97; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. 10-26-99, cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106-2002(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp), f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. 9-12-03, cert. ef. 9-15-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. 10-10-03, cert. ef. 10-12-03 thru 12-31-03; DFW 107-2003(Temp), f. 10-21-03, cert. ef. 10-26-03 thru 12-31-03; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 98-2004(Temp), f. & cert. ef. 9-22-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 101-2004(Temp), f. & cert. ef. 9-29-04 thru 12-31-04; DFW 102-2004(Temp), f. 10-1-04, cert. ef. 10-4-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; Administrative correction, 2-18-05; 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 113-2005(Temp), f. & cert. ef. 9-28-05 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; DFW 126-2005(Temp), f. 10-21-05, cert. ef. 10-23-05 thru 12-31-05; Administrative correction 1-19-06; DFW 102-2006(Temp), f. 9-15-06, cert. ef. 9-19-06 thru 12-31-06; DFW 106-2006(Temp), f. 9-22-06, cert. ef. 9-25-06 thru 12-31-06; DFW 111-2006(Temp), f. 9-29-06, cert. ef. 10-2-06 thru 12-31-06; DFW 112-2006(Temp), f. 10-4-06, cert. ef. 10-8-06 thru 12-31-06; DFW 114-2006(Temp), f. & cert. ef. 10-12-06 thru 12-31-06; DFW 120-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 91-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 94-2007(Temp), f. 9-21-07, cert. ef. 9-24-07 thru 12-31-07; DFW 97-2007(Temp), f. 9-25-07, cert. ef. 9-26-07 thru 12-31-07; DFW 98-2007(Temp), f. 9-26-07, cert. ef. 9-27-07 thru 12-31-07; DFW 99-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 104-2007(Temp), f. & cert. ef. 10-3-07 thru 12-31-07; DFW 107-2007(Temp), f. & cert. ef. 10-10-07 thru 12-31-07; DFW 109-2007(Temp), f. 10-16-07, cert. ef. 10-17-07 thru 12-31-07; DFW 111-2007(Temp), f. 10-22-07, cert. ef. 10-23-07 thru 12-31-07; DFW 112-2007(Temp), f. 10-24-07, cert. ef. 10-25-07 thru 12-31-07; DFW 113-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 12-31-08; DFW 119-2008(Temp), f. & cert. ef. 9-24-08 thru 12-31-08; DFW 127-2008(Temp), f. 10-7-08, cert. ef. 10-8-08 thru 12-31-08

Rule Caption: Chetco River Terminal Area Commercial Chinook Salmon Fisheries.

ADMINISTRATIVE RULES

Adm. Order No.: DFW 128-2008(Temp)

Filed with Sec. of State: 10-9-2008

Certified to be Effective: 10-12-08 thru 12-31-08

Notice Publication Date:

Rules Amended: 635-003-0085

Rules Suspended: 635-003-0085(T)

Subject: Amended rule closes the Commercial Oregon ocean Chetco River terminal area Chinook salmon fishery at 11:59 p.m. October 12, 2008 when attainment of the Chinook quota is projected to have been met.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-003-0085

Extended Commercial Seasons

In addition to the open seasons prescribed in OAR 635-003-0003 there are open seasons for Chinook salmon as follows:

(1) Chetco River Ocean Terminal Area — from October 5-8 and October 12 or the earlier of a 250 Chinook quota in the area described in section (1)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of the north shore of Twin Rocks (42°05'36" N. Lat.) to the Oregon/California border (42°00'00" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described in this section (1) it is unlawful to take Chinook salmon less than 28 inches in total length; it is unlawful to use multipoint or barbed hooks, or to fish more than four spreads per line; it is unlawful to make more than one landing of Chinook per day; and it is unlawful to have in possession or to land more than 10 Chinook per day through October 8 and 5 Chinook per day on October 12 taken in this fishery. Landings are restricted to Brookings.

(2) Elk River Ocean Terminal Area — from November 1-30 or the earlier of a 250 Chinook quota in the area described in section (2)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of Cape Blanco (42°50'20" N. Lat.) and north of Humbug Mountain (42°40'30" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described in this section (2), it is unlawful to take Chinook salmon less than 28 inches in total length; it is *unlawful* to use multipoint or barbed hooks, or to fish more than four spreads per line; it is unlawful to make more than one landing of Chinook per day; and it is unlawful to have in possession or to land more than 10 Chinook per day taken in this fishery. Landings are restricted to Port Orford.

(3) Tillamook Bay Ocean Terminal Area — from September 1 through November 15 or the earlier of a 500 Chinook quota in the area described in section (3)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area between Pyramid Rock (45°29'48" N. Lat.) and Twin Rocks (45°35'54" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described in this section (3), it is unlawful to take Chinook salmon less than 28 inches in total length; it is unlawful to use multipoint or barbed hooks, or to fish more than four spreads per line; and it is unlawful to have in possession or to land more than 25 Chinook per calendar week (Sunday through Saturday).

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

Stats. Implemented: ORS 506.129

Hist.: FWC 48-1984(Temp), f. & ef. 8-31-84; 57-1984(Temp), f. & ef. 9-15-84; FWC 59-1986(Temp), f. & ef. 9-19-86; FWC 106-1992(Temp), f. 10-8-92, cert. ef. 10-24-92; FWC 111-1992(Temp), f. 10-26-92, cert. ef. 10-27-92; FWC 62-1993, f. & cert. ef. 10-1-93; FWC 56-1994, f. 8-30-94, cert. ef. 9-1-94; FWC 80-1994(Temp), f. 10-25-94, cert. ef. 10-26-94; FWC 82-1994(Temp), f. 10-28-94, cert. ef. 10-30-94; FWC 81-1995, f. 9-29-95, cert. ef. 10-1-95; FWC 85-1995(Temp), f. & cert. ef. 10-20-95; FWC 56-1996, f. 9-27-96, cert. ef. 10-1-96; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 66-1997(Temp), f. 10-24-97, cert. ef. 10-26-97; FWC 67-1997(Temp), f. 10-28-97, cert. ef. 10-29-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 78-2006(Temp), f. 8-7-06, cert. ef. 9-1-06 thru 12-15-06; Administrative correction 12-16-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 65-2008(Temp), f. 6-20-08, cert. ef. 9-1-08 thru 12-31-08; DFW 128-2008(Temp), f. 10-9-08, cert. ef. 10-12-08 thru 12-31-08

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Rule Caption: Rules Related To Requirements for the Proof of Residency.

Adm. Order No.: DFW 129-2008

Filed with Sec. of State: 10-14-2008

Certified to be Effective: 10-14-08

Notice Publication Date: 9-1-2008

Rules Amended: 635-010-0015

Subject: Rules to establish uniform requirements of residency regarding in-person, mail-order, fax, and internet license sales transactions.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-010-0015

Issuing Documents

(1) Licensing documents may be obtained by mail, FAX or Internet. A legible copy of the mail order application form printed in the Oregon Big Game, Game Bird, and Sport Fishing Regulations or a copy of that form may be mailed or Faxed to the Oregon Department of Fish and Wildlife, Licensing Section, 3406 Cherry Avenue NE, Salem, OR, 97303. License documents may be obtained from the Internet from the ODFW website (<http://www.dfw.state.or.us/>).

(a) Requests for mail-ordered documents must be postmarked on or before any deadlines established for issuing such documents;

(b) The Department may require additional information if necessary to complete the ordered documents;

(c) The Department will not issue any document until it receives the required fee by check, money order, or a valid debit or credit card authorization.

(2)(a) With the exceptions noted in paragraph (d) below, a resident is one who has physically dwelled in Oregon continuously for the six months prior to applying for a license. Temporary absences from Oregon during that time period do not defeat a person's residency so long as such absences were not for the purpose of establishing residency outside Oregon. This is the legal standard for purchasing a resident license.

(b) To implement the legal standard, the applicant must sign this certification for all but resident senior citizen licenses: "I, the undersigned, hereby certify and declare that the information provided to obtain this license/tag is true. To acquire an Oregon resident license/tag I certify that I have resided continuously within Oregon no less than six months immediately prior to applying for this license/tag. I have resided in Oregon for _____ Years _____ Months. I acknowledge this license was issued as requested and understand that no refund will be made."

(c) For a resident senior citizen license, the applicant must sign this certification: "I, the undersigned, hereby certify that the information provided to obtain this license is true. To acquire a resident senior citizen license, I hereby certify that I have reached the age of 70 and have resided in Oregon no less than five years. I further certify that I have resided continuously within Oregon no less than six months immediately prior to applying for this license. I have resided in Oregon since Month ____ Year _____. I acknowledge this license/tag was issued as requested and understand that no refund will be made."

(d) The legislature has waived the six month requirement for certain classes of persons:

(1) Active members of the armed forces permanently assigned to active duty in Oregon (and their spouses and dependent children). This includes, but is not limited to, those who serve as crew members of ships that have an Oregon port or shore establishment as their home port or permanent station;

(2) Active members of the armed forces who reside outside Oregon but paid Oregon resident income taxes no later than 12 months before leaving active duty; and

(3) Aliens attending an Oregon school as foreign exchange students.

(3) Agents must supply all the information requested on the data screen. If the person applying for the licensing document fails to supply the necessary information, the agent may not issue the requested licensing document. All daily angling licenses must show the date they become valid.

(4) Agents must obtain social security numbers for any person who purchases a license. The Department will use this number to comply with collection of the social security numbers pursuant to the child support enforcement laws as required by Section 117, Chapter 746, Oregon Laws 1997. The Department will issue a system-generated number to persons who are not citizens of this country or who do not have a social security number. If the social security number provided by an applicant is in use by another individual, the agent will not issue the license until the applicant provides proof that the social security number is, in fact, the applicant's social security number. An official document such as a social security card, payroll document, or health insurance identification card with the social security number printed on it must be presented to the agent as proof. An individual's social security number is not subject to disclosure to members of the public under the Oregon Public Records Law.

(5) Any employee of the agent may issue documents, provided that the employee is instructed as to all applicable statutes and regulations. An agent is responsible for employee training and for any violation of applicable statutes and regulations committed by the employees.

Stat. Auth.: ORS 496, 497 & 498

Stats. Implemented: ORS 496, 497 & 498

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Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-010-0021; FWC 124-1990, f. 11-28-90, cert. ef. 1-1-91; FWC 122-1992, f. & cert. ef. 11-23-92; FWC 4-1994, f. & cert. ef. 1-25-94; DFW 99-1999(Temp), f.12-22-99, cert. ef. 1-1-00 thru 6-27-00; DFW 33-2000, f. & cert. ef. 6-19-00; DFW 30-2002, f. & cert. ef. 4-11-02; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 129-2008, f. & cert. ef. 10-14-08

Rule Caption: Rules Relating to Internet, Mail Order, and Fax License and Tag Sales.

Adm. Order No.: DFW 130-2008

Filed with Sec. of State: 10-14-2008

Certified to be Effective: 10-14-08

Notice Publication Date: 9-1-2008

Rules Adopted: 635-010-0170

Subject: This rule establishes internet license and tag sales and to add a \$2 shipping and handling convenience charge to those license sales conducted through the mail, via fax or over the internet.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-010-0170

Licenses, Tags or Documents Available By Mail Order, Fax or Internet

(1) All licenses, tags, permits or validations sold by the Department over the Internet fall into one of three categories concerning how the sale is made: Instant; Temporary; or Postal. Postal transactions are also available by mail order or fax.

(a) Instant: means that the internet purchase results in an immediate sale and printing of the item, allowing the purchaser to make immediate use of item purchased. No other action is required to complete the transaction. The items in this category are:

(A) Daily Angling Licenses: one-, two-, three-, four- and seven-day licenses;

(B) Three-day Nonresident Shellfish licenses;

(C) Three-day Nonresident Bird Hunting Licenses;

(D) Big Game controlled hunt applications;

(E) Game Bird controlled hunt applications;

(F) Sauvie Island Daily parking permits;

(G) Band-tailed Pigeon permits;

(H) Black Brant Permits;

(I) Sage Grouse Permits;

(J) Fern Ridge Reservation Permits;

(K) Klamath Reservation Permits; and

(L) Sauvie Island Reservation Permits.

(b) Temporary: means that the internet purchase results in an immediate sale and printing of the item, allowing the purchaser to make limited use (10 days) of the item purchased. The Department will send the final, permanent item to the purchaser via postal mail. The items in this category are:

(A) HIP Migratory Bird Validations;

(B) HIP Upland Bird Validations;

(C) HIP Crow Validations;

(D) Nonresident Game Bird Validations;

(E) Upland Game Bird Validations;

(F) Waterfowl Bird Validations;

(G) Sauvie Island Annual Parking Permits;

(H) Sea Duck Permits; and

(I) All annual hunting and angling licenses.

(c) Postal: means that the internet purchase results in an immediate sale and the printing of a transaction receipt, but that the Department mails the actual item to the purchaser via postal mail. The privilege(s) purchased is not valid until the purchaser receives the item. The items in this category are:

(A) Combined Hunting Tags;

(B) Combined Angling Tag;

(C) Hatchery Harvest Tag;

(D) All Big Game Tags (controlled hunt and general season);

(E) Pheasant Tags;

(F) NW Oregon Goose Permit; and

(G) Turkey Tags.

(2) The Department will charge shipping and handling fee of \$2.00 per session whenever a person makes a purchase via Internet, fax, or mail order. This fee is in addition to all other document costs and covers the processing, printing, and postal mailing of the requested documents.

Stat. Auth.: ORS 496 & 497, 497.158

Stats. Implemented: ORS 496 & 497, 497.158

Hist.: DFW 130-2008, f. & cert. ef. 10-14-08

Rule Caption: Rules Relating to the Land Owner Preference (LOP) Program.

Adm. Order No.: DFW 131-2008

Filed with Sec. of State: 10-14-2008

Certified to be Effective: 10-14-08

Notice Publication Date: 9-1-2008

Rules Adopted: 635-075-0003

Rules Amended: 635-075-0005

Subject: Amended the rules related to the Landowner Preference Program. Specifically, changes to tag allocation for properties larger than 20,000 acres and suspension of participation in the program by landowners who deliberately violated LOP rules.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-075-0003

Decision Standard for Suspension and Revocation from the LOP Program

(1) If a landowner as defined in OAR 635-045-0002 (or the landowner's partner, member, manager, employee, or any person using an LOP tag provided by the landowner) is convicted of violation of the wildlife laws arising from participating in the LOP program, the Department will suspend that landowner from participating in the LOP program for the remainder of the current year plus two additional years.

(a) When the Department suspends a landowner pursuant to paragraph (1), that suspension will include any and all properties associated with that landowner, including properties registered to the individual, as a partnership, or as a corporation, and the suspension will run for the same period of time as for the landowner.

(b) When the Department suspends a landowner pursuant to paragraph (1), the Department will also revoke any unused LOP tags previously issued for the landowner's properties.

(2) Any landowner whose LOP program participation the Department proposes to suspend may request a contested case hearing within 14 days of notice of the proposed decision.

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

Stats Implemented: ORS 496.012, 496.138, 496.146, 496.162

Hist.: DFW 131-2008, f. & cert. ef. 10-14-08

635-075-0005

Registration, Application and Tag Issuance Procedures and Limits for All Controlled Hunts

(1) A landowner shall submit a landowner preference registration form to be eligible for a landowner preference tag. A landowner can have only one registration form on file with the department. The registration form is an affidavit certifying ownership, number of acres owned, the county and Wildlife Management Unit where the property is located. This registration form registers the individual and remains valid until the individual registered no longer qualifies as a landowner as defined under OAR 635-045-0002, writes to the department requesting the registration form be deleted, or the department notifies the landowner that a renewal is required.

(2) In addition to having a landowner preference registration form on file with the department, a landowner shall submit a tag distribution form annually. The tag distribution form shall list the names of the landowner, stockholder(s), partner(s), and their immediate family members to receive tags for pronghorn antelope, and the names of the landowner, stockholder(s), partner(s), their immediate family members, and those persons of the landowners' choosing to receive landowner preference tags for deer and elk.

(3) Landowners shall submit registration forms and tag distribution forms prior to September 15 for all controlled 100 series buck deer and bull elk hunts, and through the day prior to the season openings for 600 series antlerless deer, antlerless elk, and doe/fawn pronghorn antelope hunts.

(4) Registration forms and tag distribution forms are available at no charge in any office of the department.

(5) Registration forms, tag distribution forms, and applications shall be received at the Salem headquarters office of the department prior to issuance of any landowner preference tag, except as provided for in OAR 635-075-0007. Landowners are not required to submit proof of ownership with their registration form. Landowners shall be required to submit proof of ownership at the request of the department or the Oregon State Police acting on behalf of the department.

(6) A landowner, stockholder(s), partner(s), and immediate family and those persons of the landowners' choosing wishing to also apply for controlled hunt tags shall apply by the May 15 controlled hunt deadline. Listing a hunt choice other than a landowner preference choice is not required.

(7) Everyone shall follow controlled hunt application procedures and regulations as described in OAR Division 060.

(8) The number of landowner preference tags issued is based upon a landowner's acreage. Landowner Preference tags shall be allocated by the following minimum acreage requirements: [Table not included. See ED. NOTE.]

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(9) Landowner preference tags for the hunting of deer or elk may be issued to any person of the landowner's choosing, and shall be used for the taking of antlerless animals except as described in OAR 635-075-0005(8). Season dates of the transferred landowner preference tags shall be the same dates as the original tag.

(10) Landowner preference tags for the hunting of antlered deer or elk that are issued to a person of the landowner's choosing who is not a member of the landowner's, partner's, or stockholder's immediate family may be used to take an antlered animal only as follows:

(a) If the landowner is eligible for two, three, or four preference tags, one of those tags may be so used.

(b) If the landowner is eligible for five, six or seven preference tags, two of those tags may be so used.

(c) If the landowner is eligible for eight, nine or 10 preference tags, three of those tags may be so used.

(11) A landowner who is qualified to receive landowner hunting preference tags may request two additional tags for providing public access and/or two additional tags for wildlife habitat programs. This request shall be made to the Access and Habitat Board with supporting evidence that the access is significant and the habitat programs benefit wildlife. The board may recommend that the commission grant the request. These tags may not be applied to the options as defined in OAR 635-075-0005(8).

(12) No one shall receive both a controlled hunt tag and a landowner preference tag for the same type of hunt. Landowner hunting preference tags shall not be issued to any person successful in the controlled hunt drawing for the same type of hunt.

(13) Landowner preference tags, except as described in OAR 635-075-0007, 635-075-0010, and 635-075-0015 shall only be issued from the headquarters office of the department following the controlled hunt drawings.

[ED. NOTE: Table referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 35-1982, f. & ef. 6-7-82; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 48-1987, f. & ef. 7-6-87; FWC 20-1988, f. & cert. ef. 3-10-88; FWC 45-1988, f. & cert. ef. 6-13-88; FWC 98-1988, f. & cert. ef. 10-6-88; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 99-1992, f. & cert. ef. 9-25-92; FWC 10-1994, f. & cert. ef. 2-24-94; FWC 14-1994(Temp), f. & cert. ef. 3-1-94; FWC 40-1994, f. & cert. ef. 6-28-94; FWC 7-1996, f. & cert. ef. 2-12-96; FWC 38-1997, f. & cert. ef. 6-17-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 131-2008, f. & cert. ef. 10-14-08

Rule Caption: Columbia River Late Fall Commercial Gill Net Chinook Salmon Season Extended.

Adm. Order No.: DFW 132-2008(Temp)

Filed with Sec. of State: 10-14-2008

Certified to be Effective: 10-15-08 thru 12-31-08

Notice Publication Date:

Rules Amended: 635-042-0060

Rules Suspended: 635-042-0060(T)

Subject: Amended rule implements three new fishing periods in the Columbia River for the commercial harvest, retention and sales of Chinook salmon and white sturgeon in zones 1-3 (upstream to the Longview, Washington Bridge) and all of zones 4-5 beginning October 15, 2008. The proposed fisheries provide commercial gill netters the opportunity to harvest part of their pre-season allocation. Revisions are consistent with action taken October 14, 2008 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0060

Late Fall Salmon Season

(1) Salmon and white sturgeon may be taken by gill nets for commercial purposes from the Columbia River during the open fishing periods and areas identified in sections (2) through (12) below. Retention of green sturgeon is prohibited.

(a) In sections (2), (3), (4) and (6) below: Elokamin-B, Abernathy, Cowlitz, Kalama-B, Lewis-B*, Sandy and Washougal river sanctuaries are in effect. *Lewis-B includes all of the area from the upper boundary of the Lewis-B sanctuary downstream to a line projected from the red navigation Marker 62 at the head of Deer Island, Oregon, across to the green navigation Marker 63 at Martin Island, Washington.

(b) In sections (5) and (7) thru (11) below: Lewis-B*, Sandy and Washougal river sanctuaries are in effect. *Lewis-B includes all of the area from the upper boundary of the Lewis-B sanctuary downstream to a line projected from the red navigation Marker 62 at the head of Deer Island,

Oregon, across to the green navigation Marker 63 at Martin Island, Washington.

(c) In section 12 below: Grays River; Elokamin-A, Lewis-B, Sandy and Washougal rivers sanctuaries are in effect.

(d) In sections (2) through (8) below: a maximum of ten white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) and the weekly aggregate white sturgeon limit applies to possession and sales in the Columbia River mainstem only. The Columbia River Select Areas are currently closed to the retention of white sturgeon.

(e) In sections (9) through (12) below: a maximum of three white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) and the weekly aggregate white sturgeon limit applies to possession and sales in the Columbia River mainstem only. The Columbia River Select Areas are currently closed to the retention of white sturgeon.

(f) In sections (3) though (12) below: 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 0.375 inches or greater.

(2) From 7:00 a.m. to 7:00 p.m. (12 hours) Thursday, September 18, 2008 in Zones 1-5. Gear is restricted to gill nets with a 9-inch minimum and 9.75-inch maximum mesh size.

(3) From 7:00 p.m. Sunday, September 21 to 7:00 a.m. Monday, September 22, 2008 (12 hours) in Zones 1-5. Gear is restricted to gill nets with a 8-inch minimum and 9.75-inch maximum mesh size.

(4) From 9:00 p.m. Tuesday, September 23 to 7:00 a.m. Wednesday, September 24, 2008 (10 hours) in Zones 4-5. Gear is restricted to gill nets with a 8-inch minimum and 9.75-inch maximum mesh size.

(5) From 7:00 p.m. Wednesday, September 24 to 7:00 a.m. Thursday, September 25, 2008 (12 hours) in Zones 4-5. Gear is restricted to gill nets with a 8-inch minimum mesh size.

(6) From 7:00 a.m. to 7:00 p.m. (12 hours) Thursday, September 25, 2008 in Zones 1-5. Gear is restricted to gill nets with a 9-inch minimum and 9.75-inch maximum mesh size.

(7) From 7:00 p.m. Thursday, September 25 to 7:00 a.m. Friday, September 26, 2008 (12 hours) in Zones 4-5. Gear is restricted to gill nets with a 8-inch minimum mesh size.

(8) Nightly from 7:00 p.m. to 7:00 a.m. (12 hours) beginning Sunday, September 28 through Thursday, October 3, 2008 in Zones 4-5. Gear is restricted to gill nets with a 8-inch minimum mesh size.

(9) From 7:00 p.m. Wednesday, October 8 to 7:00 a.m. Thursday, October 9, 2008 (12 hours) in Zones 4-5. Gear is restricted to gill nets with a 8-inch minimum mesh size.

(10) From 7:00 p.m. Thursday, October 9 to 7:00 a.m. Friday, October 10, 2008 (12 hours) in Zones 4-5. Gear is restricted to gill nets with a 8-inch minimum mesh size.

(11) From 6:00 p.m. Wednesday, October 15 to 6:00 a.m. Thursday, October 16, 2008 (12 hours) and from 8:00 p.m. Thursday, October 16 to 8:00 a.m. Friday, October 17, 2008 (12 hours) in Zones 4-5. Gear is restricted to gill nets with a 8-inch minimum mesh size.

(12) From 7:00 a.m. to 7:00 p.m. Thursday, October 16, 2008 (12 hours) in Zones 1-3 (upstream to the Longview Bridge) and Zones 4-5. No minimum mesh size restriction in effect.

Stat. Auth.: ORS 496.118, 506.119
Stats. Implemented: ORS 506.109, 506.129 & 507.030
Hist.: FWC 40-1979, f. & ef. 9-10-79; FWC 45-1979(Temp), f. & ef. 9-21-79; FWC 52-1979(Temp), f. & ef. 11-2-79; FWC 48-1980(Temp), f. & ef. 9-19-80; FWC 51-1980(Temp), f. & ef. 9-22-80; FWC 55-1980(Temp), f. & ef. 9-26-80; FWC 56-1980(Temp), f. & ef. 9-29-80; FWC 58-1980(Temp), f. & ef. 10-17-80; FWC 37-1981(Temp), f. & ef. 9-24-81; FWC 38-1981(Temp), f. & ef. 9-29-81; FWC 69-1982(Temp), f. & ef. 9-30-82; FWC 72-1982(Temp), f. & ef. 10-20-82; FWC 56-1983(Temp), f. & ef. 10-5-83; FWC 54-1984(Temp), f. & ef. 9-10-84; FWC 59-1984(Temp), f. & ef. 9-18-84; FWC 66-1984(Temp), f. & ef. 9-26-84; FWC 68-1984(Temp), f. & ef. 10-2-84; FWC 58-1985(Temp), f. & ef. 9-13-85; FWC 62-1985(Temp), f. & ef. 9-24-85; FWC 66-1985(Temp), f. & ef. 10-11-85; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 64-1986(Temp), f. & ef. 10-3-86; FWC 67-1986(Temp), f. & ef. 10-17-86; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-11-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 91-1987(Temp), f. & ef. 10-16-87; FWC 85-1988(Temp), f. & cert. ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 9-22-88; FWC 100-1988(Temp), f. 10-21-88, cert. ef. 10-24-88; FWC 94-1989(Temp), f. 9-15-89, cert. ef. 9-17-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989(Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. & cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC 64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-

ADMINISTRATIVE RULES

1997(Temp), f. & cert. ef. 11-3-97; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. 10-26-99, cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106-2002(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp), f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. 9-12-03, cert. ef. 9-15-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. 10-10-03, cert. ef. 10-12-03 thru 12-31-03; DFW 107-2003(Temp), f. 10-21-03, cert. ef. 10-26-03 thru 12-31-03; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 98-2004(Temp), f. & cert. ef. 9-22-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 101-2004(Temp), f. & cert. ef. 9-29-04 thru 12-31-04; DFW 102-2004(Temp), f. 10-1-04, cert. ef. 10-4-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; Administrative correction, 2-18-05; 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 113-2005(Temp), f. & cert. ef. 9-28-05 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; DFW 126-2005(Temp), f. 10-21-05, cert. ef. 10-23-05 thru 12-31-05; Administrative correction 1-19-06; DFW 102-2006(Temp), f. 9-15-06, cert. ef. 9-19-06 thru 12-31-06; DFW 106-2006(Temp), f. 9-22-06, cert. ef. 9-25-06 thru 12-31-06; DFW 111-2006(Temp), f. 9-29-06, cert. ef. 10-2-06 thru 12-31-06; DFW 112-2006(Temp), f. 10-4-06, cert. ef. 10-8-06 thru 12-31-06; DFW 114-2006(Temp), f. & cert. ef. 10-12-06 thru 12-31-06; DFW 120-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 91-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 94-2007(Temp), f. 9-21-07, cert. ef. 9-24-07 thru 12-31-07; DFW 97-2007(Temp), f. 9-25-07, cert. ef. 9-26-07 thru 12-31-07; DFW 98-2007(Temp), f. 9-26-07, cert. ef. 9-27-07 thru 12-31-07; DFW 99-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 104-2007(Temp), f. & cert. ef. 10-3-07 thru 12-31-07; DFW 107-2007(Temp), f. & cert. ef. 10-10-07 thru 12-31-07; DFW 109-2007(Temp), f. 10-16-07, cert. ef. 10-17-07 thru 12-31-07; DFW 111-2007(Temp), f. 10-22-07, cert. ef. 10-23-07 thru 12-31-07; DFW 112-2007(Temp), f. 10-24-07, cert. ef. 10-25-07 thru 12-31-07; DFW 113-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 12-31-08; DFW 119-2008(Temp), f. & cert. ef. 9-24-08 thru 12-31-08; DFW 127-2008(Temp), f. 10-7-08, cert. ef. 10-8-08 thru 12-31-08; DFW 132-2008(Temp), f. 10-14-08, cert. ef. 10-15-08 thru 12-31-08

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

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 22-2008(Temp)

Filed with Sec. of State: 10-1-2008

Certified to be Effective: 10-1-08 thru 3-30-09

Notice Publication Date:

Rules Amended: 413-120-0400, 413-120-0410, 413-120-0420, 413-120-0440, 413-120-0450, 413-120-0455, 413-120-0460, 413-120-0470

Subject: OAR 413-120-0400, 413-120-0410, 413-120-0420, 413-120-0440, 413-120-0450, 413-120-0455, 413-120-0460, 413-120-0470 about criminal history background checks for providers of care to children in Department of Human Services (DHS) custody are being amended to comply with new federal requirements effective October 1, 2008 governing the criminal background check process for prospective foster and adoptive homes. These rules are being amended to comply with the new federal law requiring that all foster and adoptive applicants be subject to a fingerprint-based criminal check through the Federal Bureau of Investigation and prohibit approval of individuals who have committed any one of a range of specified criminal offenses.

OAR 413-120-0400 about the purpose of this rule division is being amended to restate Department policy on use of criminal offender information to determine the fitness of the subject individual to provide care for children in DHS custody.

OAR 413-120-0410 about the scope of this rule division is being amended to restate Department policy on issuing decisions regarding the fitness of the subject individual to provide care for children in DHS custody.

OAR 413-120-0420 about the definitions used in this rule division is being amended to restate that an "other person in household" includes an individual providing relief or respite care and state the Department definition for relief or respite care as a formal planned arrangement to relieve a certified family's responsibilities by a per-

son temporarily assuming responsibility for the care and supervision of the child or young adult; or assistance provided by a person who comes into the home of the certified family to care for the child or young adult in the care or custody of the Department.

OAR 413-120-0440 about the limited use and sharing of the criminal history reports and information gathered under this rule division is being amended to state Department policy on expedited child-specific foster care certification criminal background checks conducted at local DHS offices. This rule is being amended to state that the required forms and fingerprint cards must be provided to the DHS Criminal Records Unit as soon as possible for purposes of obtaining fingerprint-based criminal offender information.

OAR 413-120-0450 about how criminal history information regarding convictions is considered in making care certifications and fitness determinations under this rule division is being amended to restate DHS policy on which criminal convictions preclude favorable certifications and determinations, as well as which criminal convictions preclude a favorable certification or determination unless an exception is granted under this rule's guidelines. This rule also is being amended to prohibit exceptions for certain criminal offenses including felonies involving violence and drug related offenses when the conviction has occurred within the past five years.

OAR 413-120-0455 about how criminal history information regarding arrests is considered in making care certifications and fitness determinations under this rule division is being amended to restate Department policy on use of criminal arrest information to determine the fitness of the subject individual to provide care for children in DHS custody.

OAR 413-120-0460 about the procedures Department employees utilize to obtain criminal offender information records and reports is being amended to state the Department policy on obtaining fingerprint cards from subject individuals applying to provide care for children in DHS custody, arrested or convicted once already providing care for children in DHS custody, residing outside of Oregon for more than 60 consecutive days during a certification period, and an other person in the household once identified as such. This rule also is being amended to restate Department policy on the assessment of the fitness of the subject individual to provide care for children in DHS custody, how subject individuals are notified of unfavorable fitness determinations, and how they may appeal the determination.

OAR 413-120-0470 about subject individual's rights to review and appeal Department care certifications and fitness determinations made under this rule division is being amended to restate Department policy on the reviewing and appealing determinations regarding the fitness of subject individuals to provide care for children in DHS custody.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-120-0400

Purpose

(1) It is the goal of DHS to reduce the risk of neglect and abuse of children entrusted in the care of or receiving services from DHS. Therefore, DHS will conduct criminal offender information background checks as described in these rules (OAR 413-120-0400 to 413-120-0470).

(2) These rules establish procedures by which DHS obtains criminal offender information on subject individuals who are seeking to provide relative, foster, or adoptive care to children in DHS custody under Child Welfare administrative rules, and how DHS uses criminal offender information to determine the fitness of the subject individual to provide relative, foster, or adoptive care.

(3) These rules provide guidelines on the procedures DHS will use when DHS receives requests to conduct criminal offender information record checks from licensed private agencies who are studying adoptive families for placement of children in the custody of DHS under Child Welfare administrative rules.

(4) These rules provide the standards DHS will use in granting exceptions for subject individuals convicted of certain felony and misdemeanor crimes to provide relative, foster, or adoptive care if an exception is permitted under these rules.

(5) These rules must be used in conjunction with other applicable standards when determining a subject individual's fitness to provide relative, foster, or adoptive care for children in DHS custody.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 181.537, 181.010 - 181.560 & 418.016
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03; CWP 31-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 3-2008, f. & cert. ef. 5-15-08; CWP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

413-120-0410

Scope of Rules

(1) Consistent with the purpose of these rules (OAR 413-120-0400 to 413-120-0470), DHS will issue decisions regarding the fitness for approval of subject individuals to provide relative, foster, or adoptive care.

(2) Notwithstanding the prohibitions contained in OAR 413-120-0450(2) and (3), if a subject individual was approved to be a foster parent, a relative caregiver, an adoptive parent, or an *other person in household* prior to October 1, 2008, DHS may place additional children in the home, renew the family's relative caregiver or foster home certificate of approval or approve the home as an adoptive placement if the subject individual was determined to be fit according to the criminal history rules that were in effect at the time of the original fitness determination. Any criminal convictions that occur on or after October 1, 2008, and any criminal convictions not known or evaluated prior to October 1, 2008, must be evaluated in accordance with these rules (OAR 413-120-0400 to 413-120-0470).

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 181.537, 181.010-181.560 & 418.016
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03; CWP 31-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 3-2008, f. & cert. ef. 5-15-08; CWP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

413-120-0420

Definitions

For purposes of these rules (OAR 413-120-0400 to 413-120-0470):

(1) "Adoption applicant" is a person who applies for adoption approval.

(2) "Agency agreement" means a written agreement between the Oregon State Police and a Criminal Justice or designated agency as defined by ORS 181.010 authorized to receive criminal offender information, specifying the terms and conditions of accessing and receiving Oregon computerized criminal history information to assure compliance with state and federal regulations.

(3) "Battery" means the use of physical force to injure, damage or abuse or to cause offensive physical contact.

(4) "CAF" means the Children, Adults and Families Division of DHS.

(5) "Child or Children" means a person or persons under the age of 18.

(6) "Computerized Criminal History (CCH) System" means the administration and maintenance of on-line computer files of significant criminal offender information by OSP.

(7) "Contested case hearing" means a hearing conducted under ORS Chapter 183 and applicable administrative rules.

(8) "Criminal offender information" is defined in ORS 181.010(3) and includes records, fingerprints and photographs, received, compiled and disseminated by the Oregon State Police for purposes of identifying criminal offenders and alleged offenders, as to such persons' records of arrests, the nature and disposition of criminal charges, including sentencing, confinement and release, and includes the OSP Computerized Criminal History System.

(9) "Designated agency" means any DHS unit required to access Oregon criminal offender information: to implement a federal or state statute, executive order or administrative rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on criminal conduct; for agency employment or licensing purposes; or for other demonstrated and legitimate needs when designated by order of the Governor.

(10) "DHS" means the Department of Human Services, which accesses criminal offender information as a designated agency or a criminal justice agency, and requests fingerprint-based criminal offender information from the FBI and OSP on certain persons or programs who provide care or treatment to children as regulated by DHS.

(11) "FBI" means the Federal Bureau of Investigation.

(12) "Fingerprint-based criminal offender information" means criminal offender information compiled and maintained by the Oregon State Police Bureau of Criminal Identification regarding persons who have been arrested for crimes where law enforcement agencies have submitted fingerprints and other identifying data as required by ORS 181.515 and/or federal statutes, or as deemed appropriate by the submitting law enforcement agency for the purpose of identification.

(13) "Foster parent" means a person who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(14) "Information required" means all information requested by DHS for processing criminal record checks, including fingerprint checks.

(15) "National crime information databases" means the National Crime Information Center and its incorporated criminal history databases managed by the Federal Bureau of Investigation.

(16) "OSP" means the Oregon State Police.

(17) "Other person in household" means:

(a) A person 18 years of age or older who is living in the home, and is not a child or young adult as defined by this rule;

(b) A person providing relief or respite care whether paid or unpaid; or

(c) A member of the household under 18 years of age if there is reason to believe that member may pose a risk to children placed in the home.

(18) "Private adoption agency" means an agency licensed by the State of Oregon to provide adoption services within the state and which contracts with DHS to study adoptive parents seeking to adopt children in the custody of DHS.

(19) "Relative caregiver" means a person who operates a home that has been approved by the Department to provide care for a related child or young adult who is placed in the home by the Department.

(20) "Relief or Respite Care" means:

(a) A formal planned arrangement to relieve a certified family's responsibilities by a person temporarily assuming responsibility for the care and supervision of the child or young adult; or

(b) Assistance provided by a person who comes into the home of the certified family to care for the child or young adult in the care or custody of the Department.

(21) "Subject individual" means a person who:

(a) Applies to adopt a child in the custody of DHS as described in Child Welfare Policies I-G.1.3, "Adoption Applications", OAR 413-120-0190 to 413-120-0240 and I-G.2.1, "Minimum Standards for Adoptive Homes", 413-120-0300 to 413-120-0310;

(b) Applies to be a foster parent, relative caregiver, or pre-adoptive parent as described in Child Welfare Policy II-B.1, "Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents", OAR 413-200-0301 to 413-200-0401; or

(c) Is an *other person in household* as described in OAR 413-120-0420.

(22) "Violence" means the use of physical force to injure, damage, or abuse.

(23) "Young adult" means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department's Independent Living Subsidy Program.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 181.537, 181.010 - 181.560 & 418.016
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03; CWP 31-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 3-2008, f. & cert. ef. 5-15-08; CWP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

413-120-0440

Limitations of Inquiries

(1) Only DHS employees who have been fingerprinted and cleared by the Oregon State Police must access or have access to criminal offender information pursuant to a valid agency agreement. All criminal offender information must be handled in compliance with the agency agreement and rules and procedures of the Oregon State Police relating to the criminal offender information (OAR 257-010-0010 to 257-010-0050). It is the responsibility of DHS to assure strict compliance with federal and state laws, rules and procedures regarding criminal offender information access and dissemination.

(2) Criminal offender information obtained from OSP or the FBI may not be given to unauthorized persons or agencies or used for any purpose other than that for which the information was obtained.

(3) Criminal offender information, including fingerprint-based criminal offender information, must be obtained by DHS under chapter 413 of the Oregon Administrative Rules to ascertain whether a *subject individual* as defined at OAR 413-120-0420 has been convicted of a crime that is substantially related to their qualifications as a relative caregiver, foster parent, or adoptive parent, or their fitness to be an *other person in household*.

(4) For purposes of expedited child-specific foster care certification, child welfare staff in a local DHS office may obtain criminal history information from the OSP Law Enforcement Data System (LEDS) accordance with Child Welfare Policy I-AB.6, "Access to Law Enforcement Data System (LEDS) in Local Child Welfare Offices", OAR 413-015-1100 to

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413-015-1125. For each and every criminal history check completed in a local DHS office for purposes of expedited child-specific foster care certification, a completed and signed form 1011F and two properly completed FBI fingerprint cards (FD 258) must be provided to the DHS Criminal Records Unit (CRU) for purposes of obtaining fingerprint-based criminal offender information.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537, 181.010 - 181.560 & 418.016

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03; CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05; CWP 31-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 3-2008, f. & cert. ef. 5-15-08; CWP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

413-120-0450

Consideration of Criminal History

(1) DHS has determined that persons who engage in certain criminal conduct may not be qualified to be a relative caregiver, foster or adoptive parent, or fit to be an other person in a relative caregiver, foster or adoptive home because that criminal conduct is fundamentally inconsistent with any responsibility for care, treatment or supervision of children or other vulnerable persons. Unless an exception is allowed under these rules (OAR 413-120-0400 to 413-120-0470), convictions for crimes listed in these rules or a false statement about a conviction for any crime may disqualify a subject individual from being approved as a relative caregiver, foster or adoptive parent, or to be an *other person in household*.

(2) If a subject individual has been convicted of a crime described in section (3) of this rule, that individual may not be approved or certified as a relative caregiver, foster parent, adoptive parent, or *other person in household* and no exception may be granted. A subject individual who has been convicted of any crime other than one described in section (3) of this rule may be approved or certified as a relative caregiver, foster parent, adoptive parent, or *other person in household* only if an exception is granted as provided in sections (4)–(6) of this rule.

(3) Crimes with no exceptions.

(a) DHS will not issue or renew a certificate of approval to operate a relative caregiver or foster home, or approve an adoption application, and no exception will be granted if a subject individual has been convicted in Oregon or any other jurisdiction of a felony crime that involves:

(A) Violence, including rape, sexual assault, and homicide, but not including other physical assault or battery;

(B) Intentional starvation or torture;

(C) Abuse or neglect of a child;

(D) Spousal abuse; or

(E) Aiding, abetting, attempting, soliciting or conspiring to cause the death of a child;

(F) Sodomy or sexual abuse; or

(G) A child as the victim (including child pornography);

(b) Crimes described under subsection (a) of this section include, but are not limited to, the following crimes under Oregon law, or substantially similar crimes in Oregon or any other jurisdiction:

(A) ORS 162.155 — Escape in the second degree, if the crime involves violence

(B) ORS 162.165 — Escape in the first degree, if the crime involves violence

(C) ORS 162.325 — Hindering prosecution, if the crime involves violence

(D) ORS 163.095 — Aggravated murder

(E) ORS 163.115 — Murder

(F) ORS 163.118 — Manslaughter in the first degree

(G) ORS 163.125 — Manslaughter in the second degree

(H) ORS 163.145 — Criminally negligent homicide

(I) ORS 163.149 — Aggravated vehicular homicide

(J) ORS 163.160 — Assault in the fourth degree, if:

(i) The subject individual has previously been convicted of assaulting the same victim and the victim is a child or the subject individual's spouse;

(ii) The subject individual has previously been convicted at least three times under ORS 163.160 or under equivalent laws of another jurisdiction, all the assaults involved domestic violence, as defined in ORS 135.230, and the victim is the subject individual's spouse; or

(iii) The assault is committed in the immediate presence of, or is witnessed by, the subject individual's or the victim's minor child or stepchild or a minor child residing within the household of the subject individual or victim, and the victim is a child or the subject individual's spouse.

(K) ORS 163.165 — Assault in the third degree if the victim is a child or the subject individual's spouse.

(L) ORS 163.175 — Assault in the second degree if the victim is a child or the subject individual's spouse.

(M) ORS 163.185 — Assault in the first degree if the victim is a child or the subject individual's spouse.

(N) ORS 163.205 — Criminal mistreatment in the first degree if the victim is a child or the subject individual's spouse, or if the crime involves violence.

(O) ORS 163.207 — Female genital mutilation.

(P) ORS 163.213 — Unlawful use of an electrical stun gun, tear gas or mace in the first degree.

(Q) ORS 163.225 — Kidnapping in the second degree if the victim is a child or the subject individual's spouse, or if the crime involves violence.

(R) ORS 163.235 — Kidnapping in the first degree if the victim is a child or the subject individual's spouse, or if the crime involves violence.

(S) ORS 163.245 — Custodial interference in the second degree if the victim is a child.

(T) ORS 163.257 — Custodial interference in the first degree if the victim is a child.

(U) ORS 163.355 — Rape in the third degree.

(V) ORS 163.365 — Rape in the second degree.

(W) ORS 163.375 — Rape in the first degree.

(X) ORS 163.385 — Sodomy in the third degree.

(Y) ORS 163.395 — Sodomy in the second degree.

(Z) ORS 163.405 — Sodomy in the first degree.

(AA) ORS 163.408 — Unlawful sexual penetration in the second degree.

(BB) ORS 163.411 — Unlawful sexual penetration in the first degree.

(CC) ORS 163.425 — Sexual abuse in the second degree.

(DD) ORS 163.427 — Sexual abuse in the first degree.

(EE) ORS 163.432 — Online sexual corruption of a child in the second degree

(FF) ORS 163.433 — Online sexual corruption of a child in the first degree.

(GG) ORS 163.452 — Custodial sexual misconduct in the first degree.

(HH) ORS 163.479 — Unlawful contact with a child.

(II) ORS 163.525 — Incest, if the victim of the offense is a child.

(JJ) ORS 163.535 — Abandonment of a child.

(KK) ORS 163.537 — Buying or selling a person under 18 years of age.

(LL) ORS 163.547 — Child neglect in the first degree.

(MM) ORS 163.555 — Criminal nonsupport.

(NN) ORS 163.670 — Using a child in display of sexually explicit conduct.

(OO) ORS 163.684 — Encouraging child sexual abuse in the first degree.

(PP) ORS 163.686 — Encouraging child sexual abuse in the second degree.

(QQ) ORS 163.688 — Possession of materials depicting sexually explicit conduct of a child in the first degree.

(RR) ORS 163.689 — Possession of materials depicting sexually explicit conduct of a child in the second degree.

(SS) ORS 164.125 — Theft of services, if the theft involves violence and is for services valued at \$750 or more.

(TT) ORS 164.225 — Burglary in the first degree if the crime involves violence.

(UU) ORS 164.395 — Robbery in the third degree if the crime involves violence.

(VV) ORS 164.405 — Robbery in the second degree if the crime involves violence.

(WW) ORS 164.415 — Robbery in the first degree if the crime involves violence.

(XX) ORS 166.015 — Riot if the crime involves violence.

(YY) ORS 166.165 — Intimidation in the first degree if the crime involves violence.

(ZZ) ORS 166.220 — Unlawful use of a weapon if the crime involves violence.

(AAA) ORS 167.017 — Compelling prostitution, if the victim is a child or the subject individual's spouse.

(BBB) ORS 167.057 — Luring a minor

(c) DHS will not issue or renew a certificate of approval to operate a relative caregiver or foster home, or approve an adoption application, and no exception will be granted if a subject individual has been convicted in Oregon or any other jurisdiction of a felony crime within the five years preceding application to be a relative caregiver or a foster or adoptive parent and the felony crime involves:

(A) Physical assault, battery; or

(B) A drug related offense.

(d) Crimes described under subsection (c) of this section include, but are not limited to, the following crimes under Oregon law, or substantially similar crimes in Oregon or any other jurisdiction, if and when the conviction occurred within the five years preceding application to be a relative caregiver or a foster or adoptive parent:

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(A) ORS 163.160 — Assault in the fourth degree, if classified as a felony, unless the conviction meets the criteria set forth in subsection (3)(b) of this rule.

(B) ORS 163.165 — Assault in the third degree, unless the conviction meets the criteria set forth in subsection (3)(b) of this rule.

(C) ORS 163.175 — Assault in the second degree, unless the conviction meets the criteria set forth in subsection (3)(b) of this rule.

(D) ORS 163.185 — Assault in the first degree, unless the conviction meets the criteria set forth in subsection (3)(b) of this rule and only if the crime involved violence.

(E) ORS 163.208 — Assaulting a public safety officer.

(F) ORS 167.212 — Tampering with drug records.

(G) ORS 167.262 — Adult using minor in commission of controlled substance offense, unless there was delivery for no consideration of less than five grams of marijuana.

(H) ORS 475.846 — Unlawful manufacture of heroin.

(I) ORS 475.848 — Unlawful manufacture of heroin within 1,000 feet of school.

(J) ORS 475.850 — Unlawful delivery of heroin.

(K) ORS 475.852 — Unlawful delivery of heroin within 1,000 feet of school.

(L) ORS 475.854 — Unlawful possession of heroin.

(M) ORS 475.856 — Unlawful manufacture of marijuana.

(N) ORS 475.858 — Unlawful manufacture of marijuana within 1,000 feet of school.

(O) ORS 475.860 — Unlawful delivery of marijuana, if the delivery is for consideration or if the delivery is to a person under 18 years of age and the subject individual is at least 18 years of age and is at least three years older than the person to whom the marijuana is delivered.

(P) ORS 475.862 — Unlawful delivery of marijuana within 1,000 feet of school.

(Q) ORS 475.864 — Unlawful possession of marijuana, unless the amount possessed is less than one avoirdupois ounce of the dried leaves, stems, and flowers of the plant Cannabis family Moraceae.

(R) ORS 475.866 — Unlawful manufacture of 3,4-methylenedioxymethamphetamine.

(S) ORS 475.868 — Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of school.

(T) ORS 475.870 — Unlawful delivery of 3,4-methylenedioxymethamphetamine.

(U) ORS 475.872 — Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 feet of school.

(V) ORS 475.874 — Unlawful possession of 3,4-methylenedioxymethamphetamine.

(W) ORS 475.876 — Unlawful manufacture of cocaine.

(X) ORS 475.878 — Unlawful manufacture of cocaine within 1,000 feet of school.

(Y) ORS 475.880 — Unlawful delivery of cocaine.

(Z) ORS 475.882 — Unlawful delivery of cocaine within 1,000 feet of school.

(AA) ORS 475.884 — Unlawful possession of cocaine.

(AB) ORS 475.886 — Unlawful manufacture of methamphetamine.

(CC) ORS 475.888 — Unlawful manufacture of methamphetamine within 1,000 feet of school.

(DD) ORS 475.890 — Unlawful delivery of methamphetamine.

(EE) ORS 475.892 — Unlawful delivery of methamphetamine within 1,000 feet of school.

(FF) ORS 475.894 — Unlawful possession of methamphetamine.

(GG) ORS 475.904 — Unlawful manufacture or delivery of controlled substance within 1,000 feet of school.

(HH) ORS 475.908 — Causing another person to ingest a controlled substance.

(II) ORS 475.910 — Application of controlled substance to the body of another person, if the controlled substance is in Schedule I, II, III, or IV.

(JJ) ORS 475.914 — Prohibited acts for registrants related to Schedule I controlled substances.

(KK) ORS 475.962 — Distribution of equipment, solvent, reagent or precursor substance with intent to facilitate manufacture of controlled substance.

(LL) ORS 475.967 — Possession of precursor substance with intent to manufacture controlled substance.

(MM) ORS 475.977 — Possessing or disposing of methamphetamine manufacturing waste.

(4) Crimes for which an exception is possible.

(a) Unless an exception is granted as provided in subsection (c) of this section and section (6) of this rule, DHS may not issue or renew a certificate of approval to operate a relative caregiver or foster home for children or approve an adoption application if a subject individual has been convicted of one of the following crimes (which exclude those described in section (3) of this rule).

(A) Any misdemeanor crime of violence against a child.

(B) Any felony involving violence, unless the offense meets the criteria under section (3) of this rule.

(C) A felony drug related offense, unless the offense meets the criteria under section (3) of this rule.

(b) Examples of Crimes described under subsection (a) of this section include, but are not limited to, the following crimes under Oregon law or substantially similar crimes in Oregon or any other jurisdiction:

(A) ORS 162.155 — Escape in the second degree, if the crime involves the threatened use of violence.

(B) ORS 162.165 — Escape in the first degree, if the crime involves the threatened use of violence or a dangerous or deadly weapon.

(C) ORS 163.160 — Assault in the fourth degree, if:

(i) The person previously has been convicted of assaulting the same victim, and each conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*; or

(ii) The assault was committed in the immediate presence of, or was witnessed by, the subject individual's or the victim's minor child or stepchild or a minor child residing within the household of the subject individual or victim, and each conviction occurred more than five years from the date of the determination regarding the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(D) ORS 163.160 — Assault in the fourth degree if the victim is a child (misdemeanor conviction only).

(E) ORS 163.165 — Assault in the third degree unless the crime meets the criteria of subsection (3)(b) of this rule and only if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(F) ORS 163.175 — Assault in the second degree unless the crime meets the criteria of subsection (3)(b) of this rule and only if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(G) ORS 163.185 — Assault in the first degree unless the crime meets the criteria of subsection (3)(b) of this rule and only if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(H) ORS 164.125 — Theft of services, if the theft does not involve violence and is for services valued at \$750 or more.

(I) ORS 164.395 — Robbery in the third degree, unless the crime meets the criteria of subsection (3)(b) of this rule.

(J) ORS 164.405 — Robbery in the second degree, unless the crime meets the criteria of subsection (3)(b) of this rule.

(K) ORS 164.415 — Robbery in the first degree, unless the crime meets the criteria of subsection (3)(b) of this rule.

(L) ORS 166.015 — Riot, unless the crime meets the criteria of subsection (3)(b) of this rule.

(M) ORS 166.165 — Intimidation in the first degree, unless the crime meets the criteria of subsection (3)(b) of this rule.

(N) ORS 166.220 — Unlawful use of weapon, unless the crime meets the criteria of subsection (3)(b) of this rule.

(O) ORS 167.017 — Compelling prostitution, unless the crime meets the criteria of subsection (3)(b) of this rule.

(P) ORS 167.212 — Tampering with drug records, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(Q) ORS 475.846 — Unlawful manufacture of heroin, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(R) ORS 475.848 — Unlawful manufacture of heroin within 1,000 feet of school, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(S) ORS 475.850 — Unlawful delivery of heroin, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(T) ORS 475.852 — Unlawful delivery of heroin within 1,000 feet of school, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(U) ORS 475.854 — Unlawful possession of heroin, if the conviction occurred more than five years from the date of the determination of the sub-

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ject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(V) ORS 475.856 — Unlawful manufacture of marijuana, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(W) ORS 475.858 — Unlawful manufacture of marijuana within 1,000 feet of school, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(X) ORS 475.860 — Unlawful delivery of marijuana (felony convictions only), if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(Y) ORS 475.862 — Unlawful delivery of marijuana within 1,000 feet of school, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(Z) ORS 475.864 — Unlawful possession of marijuana (felony convictions only), if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(AA) ORS 475.866 — Unlawful manufacture of 3,4-methylenedioxymethamphetamine, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(BB) ORS 475.868 — Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of school, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(CC) ORS 475.870 — Unlawful delivery of 3,4-methylenedioxymethamphetamine, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(DD) ORS 475.872 — Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 feet of school, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(EE) ORS 475.874 — Unlawful possession of 3,4-methylenedioxymethamphetamine, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(FF) ORS 475.876 — Unlawful manufacture of cocaine, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(GG) ORS 475.878 — Unlawful manufacture of cocaine within 1,000 feet of school, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(HH) ORS 475.880 — Unlawful delivery of cocaine, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(II) ORS 475.882 — Unlawful delivery of cocaine within 1,000 feet of school, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(JJ) ORS 475.884 — Unlawful possession of cocaine, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(KK) ORS 475.886 — Unlawful manufacture of methamphetamine, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(LL) ORS 475.888 — Unlawful manufacture of methamphetamine within 1,000 feet of school, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(MM) ORS 475.890 — Unlawful delivery of methamphetamine, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(NN) ORS 475.892 — Unlawful delivery of methamphetamine within 1,000 feet of school, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(OO) ORS 475.894 — Unlawful possession of methamphetamine, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(PP) ORS 475.904 — Unlawful manufacture or delivery of controlled substance within 1,000 feet of school, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(QQ) ORS 475.908 — Causing another person to ingest a controlled substance, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(RR) ORS 475.910 — Application of controlled substance to the body of another person, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(SS) ORS 475.962 — Distribution of equipment, solvent, reagent or precursor substance with intent to facilitate manufacture of controlled substance, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(TT) ORS 475.967 — Possession of precursor substance with intent to manufacture controlled substance, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(UU) ORS 475.977 — Possessing or disposing of methamphetamine manufacturing waste, if the conviction occurred more than five years from the date of the determination of the subject individual's fitness to be a relative caregiver, foster or adoptive parent, or an *other person in household*.

(c) Written approval of the DHS Assistant Director for CAF is required for an exception to operate a relative caregiver or foster home or be approved as an adoption applicant if a subject individual has been convicted of a crime described in this section. The DHS Assistant Director for CAF may designate administrative staff not assigned to or located in a District to grant an approval authorized under this section.

(5) If a subject individual has been convicted of any felony or misdemeanor, other than those described in sections (3) or (4) of this rule, DHS may not issue or renew a certificate of approval to operate a relative caregiver or foster home for children or approve an adoption application unless an exception to approve the home is granted as provided in this section and section (6) of this rule. The following persons are authorized to grant an exception as provided in this section and section (6) of this rule:

(a) If a subject individual has been convicted of a misdemeanor, other than one resulting from domestic violence or one described in sections (3) or (4) of this rule, written approval of the District Manager is required for an exception to approve the home. The District Manager may designate the District Assistant Manager, the Child Welfare Program Manager, or a child welfare supervisor to grant an exception under this subsection.

(b) If a subject individual has been convicted of a felony or any crime involving domestic violence, other than one described in sections (3) or (4) of this rule, written approval of the District Manager is required for an exception to approve the home. The District Manager may designate the District Assistant Manager or the Child Welfare Program Manager to grant an exception under this subsection.

(6) A person authorized to grant an exception under sections (4) or (5) of this rule must determine whether the subject individual possesses the qualifications to be a relative caregiver, foster parent, adoptive parent, or is fit to be an *other person in household*, regardless of the criminal conviction or convictions. The person authorized to grant an exception must document the approval on form DHS 1011D, "Criminal History Exception Request". In determining whether to grant an exception under sections (4) or (5) of this rule, the person authorized to grant the exception must consider:

- (a) The severity and nature of the crime;
- (b) The number of criminal offenses;
- (c) The time elapsed since commission of the crime;
- (d) The circumstances surrounding the crime;
- (e) Content of the police report or reports concerning the crime;
- (f) The subject individual's explanation of the crime;
- (g) The relationship of the criminal activity to the subject individual's capacity to safely provide the proposed care;
- (h) The subject individual's participation in counseling, therapy, education, or employment evidencing rehabilitation or a change in behavior; and

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(i) When the subject individual is seeking to provide care for a specific child, whether disqualification of the subject individual would create emotional harm to the child and placement of the child with the subject individual would be a safe placement that is in the best interests of the child.

(7) If allowed by current or previously effective rules, an exception for a specific misdemeanor or felony conviction need only be granted one time for a specific subject individual.

(8) Granting an exception for a specific misdemeanor or felony crime does not establish a precedent for other cases in which a conviction for the same crime is being considered.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537, 181.010 - 181.560 & 418.016

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03; CWP 31-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 3-2008, f. & cert. ef. 5-15-08; CWP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

413-120-0455

Consideration of Arrests

(1) Behavior that results in an arrest or a history of arrests may raise concerns about a subject individual's fitness to be a relative caregiver, foster or adoptive parent, or *other person in household*. If a subject individual has a history of one or more arrests for any of the following offenses, the field staff must assess whether, considering the behavior that resulted in the arrest, the subject individual meets the qualifications to be a relative caregiver, foster or adoptive parent, or *other person in household*:

- (a) Child abuse or neglect;
- (b) Spousal abuse;
- (c) A crime against children, including pornography;
- (d) A crime involving violence, including rape, sexual abuse, manslaughter or homicide;
- (e) Physical assault;
- (f) Battery;
- (g) Drug or alcohol offenses; or
- (h) Weapons-related offenses.

(2) If a subject individual has been arrested for any of the offenses listed in section (1) of this rule, the supervisor and caseworker or certifier, in consultation with the management staff as designated by the District Manager, must assess the fitness of the subject individual to be a relative caregiver, foster or adoptive parent, or *other person in household* and document their findings. The persons conducting the assessment must consider and document their findings regarding the behavior or conduct that led to the arrest, how that behavior relates to the subject individual's qualifications to be a relative caregiver, foster or adoptive parent or *other person in household* and whether, given the behavior that led to the arrest, the subject individual is qualified to be a relative caregiver, foster parent or adoptive parent, or *other person in household*. In conducting this assessment, the supervisor and caseworker or certifier must consider the following:

- (a) The subject individual's explanation of the circumstances surrounding and the behavior that led to the arrest or arrests.
- (b) The severity and nature of the behavior that led to the arrest or arrests:

 - (c) The number of arrests in the subject individual's history for behavior that relates to and raises concerns about that individual's qualifications to be a relative caregiver, foster or adoptive parent, or fitness to be an *other person in household*;
 - (d) The time elapsed since the arrest or arrests;
 - (e) The circumstances surrounding the arrest or arrests;
 - (f) Whether the subject individual was charged or indicted for a crime related to the arrest or arrests;
 - (g) The disposition of any charge or indictment related to the arrest or arrests;
 - (h) If applicable, whether the subject individual has participated in counseling, therapy, educational, or employment opportunities since the arrest or arrests;
 - (i) When the subject individual is seeking to provide care for a specific child, whether disqualification of the subject individual would create emotional harm to the child and placement of the child with the subject individual would be a safe placement that is in the best interests of the child.

(j) Any other information related to the circumstances of the arrest or arrests or the behavior that led to the arrest or arrests that may relate to the subject individual's qualifications to be a relative caregiver, foster parent, adoptive parent, or *other person in household*.

(3) The supervisor and worker may also obtain and review a copy of the police report of the arrest and interview the subject individual about the arrest.

(4) Under no circumstances will DHS bar or refuse to approve an individual because of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 or 419A.262.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537 & 181.010 - 181.560

Hist.: SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03; CWP 31-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 3-2008, f. & cert. ef. 5-15-08; CWP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

413-120-0460

Procedures

(1) Any subject individual applying to be a relative caregiver, foster or adoptive parent, or an *other person in household* must consent to a criminal offender information records check at the time of application. After an initial certification, relative caregivers, foster parents, and other persons in the households of foster parents and relative caregivers must consent to a criminal offender information records check prior to re-certification every two years. Adoption applicants and other persons in their households must consent to a criminal offender information records check once a year after the initial criminal records check is completed. All applicants must be notified of this requirement at the time they apply for a certificate of approval or adoption approval. Criminal record check consent forms must contain a notice that applicants for a certificate of approval, or adoption approval and another person in a household are subject to a fingerprint-based criminal offender records check of national crime information databases that will be conducted as required by ORS 181.537, 181.557, and OAR 413-120-0460(5) and (6).

(2) Adoptive applicants who have been approved as relative caregivers, foster parents, or adoptive parents and who have submitted to a criminal history check within the 12 months preceding the date on which they apply to adopt may be exempt from a new criminal records check.

(3) DHS may not issue a certificate of approval for relative or foster care or approve an adoption home if a subject individual refuses to be fingerprinted when required. DHS may deny a certificate of approval or approval as an adoptive home if a subject individual makes a false statement about having been arrested for or convicted of any crime or crimes.

(4) Subject individuals must provide all information required for a criminal offender information records check, including fingerprints where required, on forms and fingerprint cards provided by DHS and according to procedures established by DHS, including:

(a) A properly completed and signed form CF 1011F from the subject individual;

(b) If the subject individual acknowledges a prior arrest or conviction for a crime listed in these administrative rules, an explanation of the relationship between the facts that support the arrest or conviction and all intervening circumstances and written authorization for DHS to verify the information; and

(c) Two properly completed FBI fingerprint cards (FD 258) with red overprinting in the reason fingerprinted block from the subject individual when required.

(5) As part of the consent to a criminal records check, DHS may request subject individuals to consent to the use of their social security numbers in conducting the criminal records check. Subject individuals will indicate their consent by their signatures.

(6) DHS must obtain and forward fingerprint cards to request criminal offender information on subject individuals from OSP and FBI as follows:

(a) At the time of initial application DHS must obtain fingerprint cards from any subject individual applying to be a relative caregiver, foster or adoptive parent, or an *other person in household*, and DHS must initiate a fingerprint-based criminal offender records check of national crime information databases;

(b) If a subject individual is arrested or convicted for a crime within the certification period of a currently certified home, and the home remains certified after the arrest or conviction, DHS must obtain fingerprint cards and initiate a fingerprint-based criminal offender records check of national crime information databases prior to re-certification;

(c) If a subject individual lives outside of Oregon for more than 60 consecutive days within the certification period of a currently certified home, DHS must obtain fingerprint cards and initiate a fingerprint-based criminal offender records check of national crime information databases.

(d) An *other person in household*, as defined in OAR 413-120-0420, who was not in the home at the time of certification, is subject to a fingerprint-based criminal offender records check at the time he or she is identified as an other person in the household. DHS must obtain fingerprint cards and initiate a fingerprint-based criminal offender records check of national crime information databases.

(7) DHS may grant an exception to the fingerprint requirement of this rule if DHS determines that the subject individual is unable to submit fingerprints due to a physical or mental condition that makes compliance impossible or presents an undue safety risk to applicant or staff. The Criminal History Exception Request (DHS 1011D) must be signed by the District Manager or designee.

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(8) No applicant will be issued or will retain a certificate of approval as a relative caregiver or a foster parent, or approval as an adoptive parent unless these criminal history safety standards are met:

(a) Completion of a documented check of Oregon LEDS;

(b) Authorization and initiation of the other requirements to complete the criminal history check process, including a fingerprint based fingerprint-based criminal offender check of national crime information databases when required for subject individuals;

(c) Granting of exceptional approval as required and authorized by OAR 413-120-0450 for any criminal convictions either acknowledged by the applicant or reported by the criminal offender information system; and

(d) Reconsideration of the approval upon receipt of any criminal history information not available at the time of previous approval.

(9) DHS will review the criminal offender information, including fingerprint-based criminal offender information when obtained, of subject individuals. The assessment of fitness, based on the criminal history, that reflects the decision-making criteria, must be documented and filed in the relative caregiver, foster home, or adoption home record. The LEDS, OSP, and FBI reports may not be filed in these records and must be destroyed within 90 days. A denial of the application or certification, based on criminal history, will be considered preliminary until the subject individual has been given notice of an opportunity to challenge the criminal record report, or to request a contested case hearing pursuant to OAR 413-120-0460. Except as provided in 413-120-0450(3), a finding of fitness based on criminal history is only one factor DHS will use in deciding whether to issue a certificate of approval for a relative caregiver or foster home, or approve an adoption home. The final determination to grant or deny a certificate of approval or approval of an adoption home based solely on criminal history will be made by the District Manager or designee. Criminal offender information received from the OSP or the FBI is confidential and may not be released to unauthorized persons or agencies.

(10) Subject individuals who have been determined not fit to be approved as an adoptive resource pursuant to these rules (OAR 413-120-0400 to 413-120-0470) must be denied approval for adoption of a child in the custody of DHS.

(11) Unless an exception for approval is granted under these rules, DHS must revoke a certificate of approval for a foster parent or relative caregiver, deny a renewal application, or remove from consideration for child placement an approved relative caregiver, family foster home, or approved adoption applicant if a subject individual is convicted of a crime in Oregon or any other jurisdiction since the time of the last approval.

(12) If DHS determines that the subject individual is not fit for a certificate of approval for relative care or foster care, or adoption approval, based on criminal history or false statement on the application related to criminal history, unless the subject individual voluntarily withdraws from the process, the Child Welfare field office will notify the subject individual, via certified mail, that the subject individual:

(a) Has a right to inspect and challenge his or her Oregon criminal offender information through the Oregon State Police procedures as adopted per ORS 181.555(3) and OAR 257-010-0035;

(b) May challenge the accuracy or completeness of any entry on the subject individual's criminal records provided by the FBI by filing a challenge with the Assistant Director of the FBI Identification Division, Washington, D.C., 20537-9700; and

(c) May appeal DHS's determination of unfitness or indicate an intent to challenge information in the OSP or FBI report by requesting a contested case hearing pursuant to ORS 183.413 to 183.470 and OAR 413-120-0470 provided that DHS receives the request for a contested case hearing in writing within 30 days from the date of mailing the notice. After 30 days from the date of mailing have elapsed, designated staff within the District will inform the certifier or adoption worker or private agency adoption worker that either:

(A) The subject individual has been notified that he or she is not fit for approval for relative care, foster care, or adoption based on criminal history or false statement in the application about criminal history and that the worker may not approve the relative care, foster care, or adoption application because the subject individual has waived or timely declined, to exercise his or her right to a contested case hearing regarding his or her fitness; or

(B) The subject individual has requested a contested case hearing and that the field office will be notified of the subject individual's fitness as a relative caregiver, foster care, or adoptive home provider upon issuance of the hearing decision.

(13) Upon the determination of DHS that an applicant for relative care, foster care, or adoption of a child in the custody of DHS under Child Welfare administrative rules is not fit based on the criminal history of an *other person in household* or false statement of criminal history of an *other person in household*, the certifier, adoption worker, or private agency adoption worker must:

(a) Inform the *other person in household* whose record was reviewed of the right to inspect and challenge the person's Oregon criminal offender information through OSP procedures as adopted per ORS 181.555(3) and OAR 257-010-0035 and the person's rights under ORS 181.557(2)(b);

(b) May challenge the accuracy or completeness of any entry on the subject individual's criminal records provided by the FBI by filing a challenge with the Assistant Director of the FBI Identification Division, Washington, D.C., 20537-9700; and

(c) Inform the relative caregiver, foster care, or adoption applicant whose approval is affected by the other person's criminal history or false statement about criminal history, via certified mail, that:

(A) Based on the other person in household's criminal history or false statement about their criminal history, DHS may not approve the relative care, foster care, or adoption applicant as long as the *other person in household* remains in the home or provides care to children in the home; and

(B) The relative care, foster care, or adoption applicant may appeal in a contested case hearing the DHS determination of unfitness based on the criminal history or false statement of criminal history concerning an other person in the home, provided that DHS receives the applicant's request for a contested case hearing in writing within 30 days from the date of mailing the notice to the applicant.

(14) The DHS relative care or foster care certifier, adoption worker or private adoption agency worker must, after 30 days have elapsed from the date of mailing the notice, either:

(a) Notify the relative care, foster care, or adoption applicant that he or she is not fit for approval for placement of a child in the custody of DHS under Child Welfare administrative rules based on criminal history of an other person in household or false statement in the application of the other person, and that DHS may not approve the applicant because the applicant has waived or declined to exercise his or her right to a contested case hearing regarding his or her fitness; or

(b) Notify the relative care, foster care, or adoption applicant that since he or she has requested a contested case hearing, the field office will be notified of the applicant's fitness for certification upon issuance of the final order.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537, 181.010 - 181.560 & 418.016

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 1-2000(T), f. & cert. ef. 1-14-00 thru 7-12-00; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03; CWP 31-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 3-2008, f. & cert. ef. 5-15-08; CWP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

413-120-0470

Rights for Review and Contested Case Hearings

(1) Contested case hearings are conducted by the Office of Administrative Hearings (OAH) under ORS Chapter 183 and OAR 137-003-0501 to 137-003-0700. Relative care, foster care, or adoption applicants have the right to appeal a decision made by DHS under its rules that the applicant is not fit for approval for placement of a child in the custody of DHS based on an authorized criminal offender information records check, or a false statement concerning a criminal records check of the applicant or *other person in household*. Applicants must notify DHS in writing of their request for a contested case hearing within 30 calendar days after the notice is mailed by DHS to the applicant.

(2) DHS and OAH have no jurisdiction in a contested case hearing over allegations that the criminal offender information received from OSP or the FBI is inaccurate, incomplete, or maintained in violation of any federal or state law.

(3) DHS is entitled to rely on the criminal offender information supplied by OSP and the FBI until OSP or the FBI notifies DHS that information has been changed or corrected. If an applicant has timely requested a contested case hearing, DHS will refer the matter to OAH for a hearing after the subject individual has been afforded a reasonable time to correct or complete the record, or has declined to do so.

(4) Prior to a contested case hearing being referred to OAH, DHS will convene an informal conference between DHS, the subject individual and his or her legal representative, if any, to review all available information and determine the need for a contested case hearing. At this informal conference, the subject individual must verify whether he or she has exercised his or her right to inspect or challenge the criminal offender information record or records or has declined to do so.

(5) To preserve the confidentiality of the records and the privacy of the subject individual, any contested case hearing under this rule will not be open to the public.

(6) The issues at a contested case hearing under this rule must be limited to the following matters:

(a) Whether the subject individual made a false statement in the application about a conviction or an arrest, has refused to consent to the criminal records check, or refused to be fingerprinted.

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(b) Whether the subject individual has been convicted of a crime described in OAR 413-120-0450(3).

(c) If the subject individual has been convicted of any crime, other than those described in OAR 413-120-0450(3):

(A) The DHS determination that the behavior which resulted in the conviction is relevant to qualification to provide care as a relative caregiver, foster or adoptive parent, or fitness to be an *other person in household*; and

(B) The relationship between the facts supporting the conviction and the intervening circumstances as affecting the qualification to provide care as a relative caregiver, foster or adoptive parent, or fitness to be an other person in the household.

(d) The relationship between the behavior that led to an arrest or arrests as affecting the qualification to provide care as a relative caregiver, foster or adoption parent, or fitness to be an other person in the household.

(7) Fingerprint cards required for evidence in a contested case hearing must be destroyed by DHS when the contested case hearing procedure and any judicial review are concluded and final.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 181.537, 181.010 - 181.560 & 409.015

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 4-1999, f. & cert. ef. 3-22-99; SOSCF 14-2000, f. & cert. ef. 7-13-00; SOSCF 23-2001, f. 6-29-01, cert. ef. 7-1-01; SOSCF 11-2002(Temp), f. & cert. ef. 9-13-02 thru 3-12-03; CWP 21-2003, f. & cert. ef. 3-13-03; CWP 31-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 3-2008, f. & cert. ef. 5-15-08; CWP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 23-2008

Filed with Sec. of State: 10-1-2008

Certified to be Effective: 10-1-08

Notice Publication Date: 8-1-2008

Rules Amended: 413-130-0070

Rules Repealed: 413-130-0005

Subject: OAR 413-130-0005 about the values of the Adoption Assistance Program is being repealed to streamline the rules by removing unnecessary statements.

OAR 413-130-0070 about adoption assistance payments is being amended to restate the Department's policy about the adoption assistance payment for children under the age of eight years who have no documented medical, physical, mental, or emotional conditions, or other clinically diagnosed disability. These children would receive a reduced adoption assistance subsidy that would be below the basic foster care rate; or an "Agreement only" depending on the child's current needs and the adoptive family's circumstance. This rate would be negotiated between the adoptive family and the Department. This subsidy amount can subsequently be reassessed and adjusted at any time to reflect the child's current needs and the family's circumstances. This rule is also being amended to replace old terminology with new terminology, add cross-references to other rules and laws, and follow standard formatting.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-130-0070

Adoption Assistance Payments

(1) The rate of adoption assistance payments is determined by negotiation between the adoptive family and the Department. If necessary, the adoption assistance coordinator conducts the final negotiation and any future renegotiation. Consultation from the adoption assistance coordinator is available during the negotiation.

(2) To establish the amount of an adoption assistance payment, the Department considers relevant factors which include but are not limited to, the needs of the child, the services required to meet those needs, cost of such services, the family's ability to provide these services, and the community resources available.

(3) If a child under the age of eight years meets the eligibility criteria for special needs status (OAR 413-130-0020) and has no documented medical, physical, mental, or emotional condition, or other clinically diagnosed disability, he or she will receive an adoption assistance payment that is less than the regular foster care payment rate, or an "Agreement only."

(4) The amount of adoption assistance payment will be negotiated prior to the completion of the adoption assistance agreement. Adoptive parents may request adjustment of the adoption assistance payment amount at any time, to reflect the child's current needs and family circumstances. The adoption assistance benefits will take effect upon completion of the adoption assistance agreement for a child who is legally free for adoption and in

a home that the Department or the private agency has designated as the adoptive placement.

(5) Medicaid, private insurance, public education, and all community resources must be considered as resources for the child and the family when negotiating the amount of adoption assistance. Income to the child from sources such as Social Security and Veterans benefits are considered in negotiating the adoption assistance payment, but will not necessarily be deducted dollar for dollar from the amount of adoption assistance payment.

(6) The rate of the adoption assistance payment may not exceed what the child would currently require if placed in a certified family home. When a child's needs exceed the regular foster care rate (determined by the age of the child), verification of the need for a higher foster care rate must be shown by completed Personal Care Services Foster Care Authorization (CF 0172A) and Special Rate Foster Care Authorization (CF 0172A (NPC)). When the child is not currently in foster care or there are no recently completed Special Rate Foster Care Authorization forms available, other appropriate documentation may be accepted, for example: a detailed letter from the parent describing the child's needs with supporting documentation such as CDRC reports, therapist assessment, school report, or psychological evaluation.

(7) When adoptive parents divorce, the Department may request updated information, including financial, to reflect the change in family circumstances. Upon receiving a request from an adoptive parent for change of payee due to divorce, the Department will notify the other parent of the request. If the change of payee is challenged, a legal document describing custody is required.

(8) Adoptive parents who move out-of-state continue to be eligible for adoption assistance benefits. Medical coverage for the child may change (see OAR 413-130-0100).

(9) Adoption assistance payments may begin when all of the following criteria are met:

(a) The child is legally free for adoption;

(b) An adoption assistance agreement has been signed by the adoptive parent or parents and by the Department representative;

(c) The Department or a private agency has designated this family as the adoption placement.

(10) Adoption assistance payments may be retroactive to the date of the signed adoption assistance application if the child was legally free for adoption and in the designated placement on this date, and no foster care payment was made for the same period.

(11) Adoption assistance payments will be made at the end of each month of eligibility.

(12) Adoption assistance benefits paid to adoptive parents by the Department are inalienable by any assignment or transfer and exempt from execution, levy, attachment, garnishment, and other legal process under the laws of this state.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 418.330 - 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 23-2008, f. & cert. ef. 10-1-08

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 24-2008(Temp)

Filed with Sec. of State: 10-1-2008

Certified to be Effective: 10-1-08 thru 3-30-09

Notice Publication Date:

Rules Amended: 413-200-0272, 413-200-0274, 413-200-0278, 413-200-0281, 413-200-0283, 413-200-0287, 413-200-0292

Subject: OAR 413-200-0272, 413-200-0274, 413-200-0278, 413-200-0281, 413-200-0283, 413-200-0287, and 413-200-0292 about responsibilities for certification and supervision of relative caregivers, foster parents, and pre-adoptive parents are being amended to comply with new federal requirements effective October 1, 2008. These rules are being amended to comply with the new federal law requiring that effective October 1, 2008 all applicants for a certificate of approval to provide foster care or relative care complete a fingerprint-based check of criminal history through the Federal Bureau of Investigation.

OAR 413-200-0272 about the definitions used in OAR 413-200-0270 to 413-200-0296 is being amended to state that a "criminal records check" may include a fingerprint-based check of Federal Bureau of Investigation databases.

OAR 413-200-0274 about responsibilities and procedures for certification of relative caregivers, foster parents, and pre-adoptive parents is being amended to state that effective October 1, 2008 the

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criminal records check done on each member of the applicant household will include a fingerprint-based check of Federal Bureau of Investigation databases. This rule also is being amended to state that during an expedited child-specific certification process a criminal history check per OAR 413-120-0400 to 413-120-0470 within 90 days of the date a certificate of approval was issued. Also, OAR 413-200-0274 is being amended to state that effective October 1, 2008 for all other applicants for certification the criminal records check done on each adult member of the household, and at the Department's discretion on any child under 18 in the household, will include a fingerprint-based check of Federal Bureau of Investigation databases.

OAR 413-200-0278 about the responsibilities for issuing a certificate of approval is being amended to correct a typographical error in the cross-reference to OAR 413-200-0274(6)(j)(D).

OAR 413-200-0281 about certifying alternate caregivers is being amended to state that effective October 1, 2008 any individual the certified family has identified as a relief or respite care provider for the certified family will be subject to a fingerprint-based check of Federal Bureau of Investigation databases.

OAR 413-200-0283 about the responsibilities in monitoring certification compliance is being amended to state that effective October 1, 2008 a certifier must assure completion of a fingerprint-based check of Federal Bureau of Investigation databases and a child abuse history background check whenever it becomes known that another adult is living in the household or a certified family identifies another relief or respite care provider.

OAR 413-200-0287 about the responsibilities regarding the two-year renewal of certificates of approval is being amended to state that a fingerprint-based check of Federal Bureau of Investigation databases is not required for an application for renewal of a certificate of approval unless an applicant or member of the household has lived outside of Oregon for more than 60 consecutive days within the two year certification period.

OAR 413-200-0292 about the responsibilities regarding recertification of a previously certified home is being amended to that the criminal records check done on any adult living in the applicant household will include a fingerprint-based check of Federal Bureau of Investigation databases only when the certified family has lived outside of Oregon for more than 60 consecutive days.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-200-0272

Definitions

The following definitions apply to OAR 413-200-0270 to 413-200-0296:

(1) "Applicant" means an individual or individuals who apply for a Certificate of Approval to become a certified family.

(2) "Certificate of Approval" means a document that the Department issues to approve the operation of a child-specific relative caregiver home, child-specific foster home, pre-adoptive home, or a regular foster home.

(3) "Certified family" means an individual or individuals who hold a Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a child or young adult in the care or custody of the Department.

(4) "Certifier" means a Child Welfare employee who conducts assessments of applicants interested in providing relative or foster care to a child or young adult in the care or custody of the Department, determines whether or not to recommend approval of the operation of a relative care or foster home, and monitors the compliance of a relative care or foster care home with Child Welfare certification rules.

(5) "Child" means a person under 18 years of age.

(6) "Child-Specific Certificate of Approval" means a document authorizing an individual or individuals to operate a home to provide care for a specific child or young adult in the care or custody of the Department.

(7) "Criminal records check" means the process for obtaining and reviewing an individual's criminal history information and may include a fingerprint-based criminal offender records check of national crime information databases.

(8) "Department" means the Department of Human Services, Child Welfare.

(9) "Denial" means the refusal of the Department to issue an initial or renew a Certificate of Approval to operate a certified home to provide care for a child or young adult in the care or custody of the Department.

(10) "Designee" means a person whom the designator directly and immediately supervises, or a person with equal or greater management responsibility than the designator.

(11) "Discipline" means a training process a certified family uses to help a child or young adult develop the self control and self direction necessary to assume responsibilities, make daily living decisions, and learn to conform to accepted levels of social behavior.

(12) "Foster parent" means a person who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(13) "Home study" means a document containing an analysis of the ability of the applicant to provide safe and appropriate care of a child or young adult in the care or custody of the Department.

(14) "Inactive Referral Status" means a period of time, not to exceed 12 months, during which neither the Department nor any other agency will place an additional child or young adult with a certified family. The certified family or the Department may initiate the Inactive Referral Status.

(15) "Member of the household" means any adult or child living in the home, including any caregiving employees and volunteers who may reside in the home.

(16) "Placement support plan" means a documented set of actions or resources that is developed to assist a relative caregiver or foster parent to maintain conditions that provide safety and well-being for children or young adults in the home.

(17) "Pre-adoptive parent" means an individual with a current Certificate of Approval to operate a home to provide care for a child placed by the Department for purposes of adoption.

(18) "Psychotropic medication" means medication, the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including, but not limited to antipsychotic, antidepressant, and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed because it may have many different effects.

(19) "Relative caregiver" means a person who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(20) "Relief or Respite Care" means:

(a) A formal planned arrangement to relieve a certified family's responsibilities by a person temporarily assuming responsibility for the care and supervision of the child or young adult; or

(b) Assistance provided by a person who comes into the home of the certified family to care for the child or young adult in the care or custody of the Department.

(21) "Revocation" means an administrative act by the Department that rescinds an existing Certificate of Approval.

(22) "Young adult" means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department's Independent Living Subsidy Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 17-1999, f. & cert. ef. 8-12-99; Renumbered from 413-200-0280, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 11-2007(Temp), f. & cert. ef. 6-1-07 thru 11-27-07; Suspended by CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

413-200-0274

Responsibilities for Certification

(1) Sections (2) to (5) of this rule cover Department responsibilities for an expedited process for certification of an applicant for a Child-Specific Certificate of Approval. Sections (6) and (7) cover Department responsibilities for certification of all other applicants.

(2) To complete the expedited process for assessment of an applicant for a Child-Specific Certificate of Approval, the certifier must:

(a) Review the completed application.

(b) Have face-to-face contact with the applicant and all members of the household. If a member of the household is unavailable when conducting face-to-face contact for a child-specific certificate of approval, the certifier must:

(A) Obtain the approval of the supervisor to delay face-to-face contact with that member of the household; and

(B) Determine a date and time for the face-to-face contact within one week of the date the member of the household becomes available.

(c) Verify applicant identity by viewing photo identification of each applicant.

(d) Explain the certification process.

(e) Discuss with the applicant the role and responsibility of the Department.

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(f) Assess the applicant's motivation for and interest in caring for the child or young adult.

(g) Complete a home visit. Observe and assess the safety of the physical environment and complete a Safety Assessment of the home.

(h) Gather and analyze information, through interview and observation, as it relates to each applicant's personal qualifications and assess the conditions that appear to exist in the home that provide safety and well-being for a child or young adult.

(i) Assure completion of a criminal records check on each adult member of the household which, effective October 1, 2008, includes initiation of a criminal records check, including information compiled and maintained by the Oregon State Police Bureau of Criminal Identification and a fingerprint-based criminal offender records check of national crime information databases as outlined in Child Welfare Policy I-G.1.4, "Criminal History", OAR 413-120-0460; and, at the Department's discretion, on any child under 18, as described in Child Welfare Policy I-G.1.4, "Criminal History", 413-120-0400 to 413-120-0470.

(A) Assess any safety concerns regarding the applicant or member of the household; and

(B) If appropriate, obtain an exception pursuant to OAR 413-120-0450(6) for any criminal history of an applicant or member of the household.

(j) Assure initiation of Child Abuse History Background Checks for each adult member of the household.

(A) A child abuse history background check must be completed in the state of Oregon and requested from any other state where the individual has resided in the last five years;

(B) Assess any safety concerns regarding the applicant or member of the household; and

(C) If appropriate, obtain approval from the District Manager, Assistant District Manager, or designee on a form approved by the Department when Child Protective Services has concluded that a member of the household is the perpetrator of a Founded Disposition or has on his or her record an Unable to Determine Child Abuse or Neglect Disposition in Oregon or has a similar disposition from another state to continue certification.

(k) Obtain at least two personal references for the applicant.

(l) Assure the applicant possesses a valid driver license and auto insurance if the applicant will transport a child or young adult in the care or custody of the Department.

(m) Determine, with input from the applicant, the gender, ages, and maximum number of children and young adults that may be placed in the home by the Department.

(n) If appropriate, obtain approval from the Child Welfare program manager or designee on a form approved by the Department when:

(A) The applicant or a member of the household is an in-home day care provider or foster care provider licensed by another child-caring agency, unless placement is authorized under an Interagency Agreement;

(B) The applicant or a member of the household is an adult foster care or in-home adult day care provider; or

(C) The applicant applying to become a relative caregiver is 18, 19, or 20 years of age.

(o) If appropriate, obtain approval from the District Manager on a form approved by the Department, when the applicant applies for a child specific Certificate of Approval through an office other than the office in the county in which the family resides.

(p) If appropriate, obtain the approval of the Child Welfare program manager when the children or young adults placed in the home will exceed the maximum number of children or young adults as described in OAR 413-200-0276.

(q) After completing the activities in section (2)(a)-(p) of this rule, the Department may issue a child-specific Certificate of Approval for up to 90 days.

(3) Within 90 days of the date the Child-Specific Certificate of Approval is issued, the certifier must:

(a) Obtain at least two additional references. Two of the four required references may be provided by the applicant's relatives.

(b) Contact the caseworker of the child or young adult placed in the home regarding the child or young adult's adjustment in placement and the certified family's ability to meet the child or young adult's needs.

(c) Conduct another home visit to gather social history information regarding personal qualifications of the certified family and assess the conditions that appear to exist in the home that provide safety and well-being for a child or young adult.

(d) Complete the criminal history check as described in Child Welfare Policy I-G.1.4, "Criminal History", OAR 413-120-0400 to 413-120-0470.

(e) Complete the Child Abuse History Background Checks for each adult member of the household as required in paragraph (2)(j)(A) of this rule and request a Child Abuse History Background Check for each adult

member of the household who has lived in another country in the last five years.

(f) Verify that the certified family will have completed:

(A) Orientation within 30 days after the Child-Specific Certificate of Approval was issued; and

(B) Foundations of Relative Care, Foster Care, and Pre-Adoptive Care (Foundations) training before or within 12 months after the date on which the Certificate of Approval was issued, or have written documentation of completion of equivalent training content from another licensed child-caring agency within two years of an applicant's dated application for a Certificate of Approval from the Department.

(g) Discuss and develop a training plan for each certified adult in the family.

(h) Document the assessment of the certified family's ability to provide safety and well-being for the child or young adult in a home study.

(4) After completing the activities in section (3) of this rule, the Department may approve the certified family for the two-year certification period and issue a Child-Specific Certificate of Approval with an effective date on the day which the activities in section (3) of this rule were completed and an end date two years from the effective date on the initial Child-Specific Certificate of Approval.

(5) When the activities described in subsections (3)(a) to (3)(g) of this rule have not been completed within 90 days, the District Manager, Assistant District Manager, or designee may extend the Child-Specific Certificate of Approval for:

(a) No longer than 60 days; or

(b) Longer than 60 days if an activity has not been completed due to circumstances beyond the control of the Department.

(6) To complete the assessment for the certification of all other applicants, the certifier must:

(a) Review the completed application.

(b) Have face-to-face contact with the applicant and all members of the household.

(c) Verify applicant identity by viewing the photo identification of each applicant.

(d) Explain the certification process.

(e) Discuss with the applicant the role and responsibility of the Department.

(f) Assess the applicant's motivation for and interest in caring for the child or young adult.

(g) Complete a minimum of two home visits. Observe and assess the safety of the physical environment and complete a safety assessment of the home.

(h) Gather social history information through interview and observation. Analyze information as it relates to each applicant's personal qualifications and assess the conditions that appear to exist in the home that provide safety and well-being for a child or young adult.

(i) Assure completion of a criminal records check which, effective October 1, 2008, includes a criminal records check, including information compiled and maintained by the Oregon State Police Bureau of Criminal Identification and a fingerprint-based criminal offender records check of national crime information databases as outlined in Child Welfare Policy I-G.1.4, "Criminal History", OAR 413-120-0460 on each adult member of the household; and, at the Department's discretion, on any child under 18, as described in Child Welfare Policy I-G.1.4, "Criminal History", 413-120-0400 to 413-120-0470.

(A) Assess any safety concerns regarding the applicant or member of the household; and

(B) If appropriate, obtain an exception pursuant to OAR 413-120-0450(6) for any criminal history of an applicant or member of the household.

(j) Assure completion of Child Abuse History Background Checks for each adult member of the household.

(A) If the applicant or an adult member of the household has lived outside the state of Oregon and within the United States in the previous five years, a child abuse history background check must be obtained from each state where the individual resided in the last five years;

(B) If the applicant or an adult member of the household has lived outside of the United States in the previous five years, a child abuse history background check must be requested from each country where the individual lived within the past five years;

(C) Assess any safety concerns regarding the applicant or member of the household; and

(D) If appropriate, obtain approval from the District Manager, Assistant District Manager, or designee on a form approved by the Department when Child Protective Services has concluded that a member of the household is the perpetrator of a Founded Disposition, has on his or her record an Unable to Determine Child Abuse or Neglect Disposition in Oregon, or has a similar disposition from another state to continue certification.

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(k) Obtain at least four personal references for the applicant, only two of which may be provided by the applicant's relatives.

(l) Assure the applicant possesses a valid driver license and auto insurance if the applicant will transport a child or young adult in the care or custody of the Department.

(m) Determine, with input from the applicant, the gender, ages, and maximum number of children and young adults that may be placed in the home by the Department.

(n) If appropriate, obtain approval from the Child Welfare program manager or designee on a form approved by the Department when:

(A) The applicant or a member of the household is an in-home day care provider or foster care provider licensed by another child-caring agency, unless placement is authorized under an Interagency Agreement;

(B) The applicant or a member of the household is an adult foster care or in-home adult day care provider; or

(C) The applicant applying to become a relative caregiver is 18, 19, or 20 years of age.

(o) If appropriate, obtain approval from the District Manager on a form approved by the Department when the applicant applies for a Certificate of Approval through an office other than the office in the county in which the family resides.

(p) If appropriate, obtain the approval of the Child Welfare program manager when the children or young adults placed in the home will exceed the maximum number of children or young adults as described in OAR 413-200-0276.

(q) Verify that the applicant has completed Orientation and Foundations of Relative Care, Foster Care, and Pre-Adoptive Care (Foundations) before or within 12 months after the date on which the Certificate of Approval was issued, or has written documentation of completion of equivalent training content from another licensed child-caring agency within two years of an applicant's dated application for a Certificate of Approval from the Department.

(r) Discuss and develop a training plan with each applicant.

(s) Document the assessment of the applicant's ability to provide safety and well-being for the child or young adult in a home study.

(7) After completing the activities in section (6) of this rule, the Department may issue a Certificate of Approval for a two-year period.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

413-200-0278

Responsibilities for Issuing a Certificate of Approval

(1) The Department must complete the assessment activities described in OAR 413-200-0274, and issue a Certificate of Approval or provide notice of intent to deny a Certificate of Approval within 180 days of receipt of an application to become a foster parent or relative caregiver, unless the application is withdrawn or the assessment period is extended by the District Manager, Assistant District Manager, or designee. Approval and notice of adoptive homes is described in Child Welfare Policy I-G.1.3, "Adoption Applications", OAR 413-120-0230 and 413-120-0240.

(2) The supervisor reviews all assessment activities, ensures all safety components of the certification standards are met, ensures any required exception has been obtained for OAR 413-200-0274(2)(i)(B) or 413-200-0274(6)(i)(B), and required approvals have been obtained for 413-200-0274(2)(j)(C), 413-200-0274(2)(n)-(p), 413-200-0274(6)(j)(D), 413-200-0274(6)(n)(A)-(C), or 413-200-0274(6)(o) or (p) prior to the Department issuing a Certificate of Approval.

(a) The Department may issue a Child-Specific Certificate of Approval for up to 90 days when all activities required in OAR 413-200-0274(2) have been completed; or

(b) When all assessment activities are completed and written documentation has been submitted, the Department may issue a two-year Certificate of Approval to provide relative or foster care.

(3) A Certificate of Approval must include the following information:

(a) The name of each primary adult, including married couples and domestic partners, approved as the certified family;

(b) The address to which the certificate applies;

(c) The age range (birth-20) and gender of the children or young adults for whom the certified family is approved to provide care;

(d) The maximum number of children or young adults that can be placed in the home;

(e) The provider number that the Department has given the home;

(f) The beginning and expiration dates of the certificate; and

(g) The signature of the Child Welfare program manager or designee.

(4) A Child-Specific Certificate of Approval must state the number, age range, and gender of the specific children or young adults placed in the home.

(5) The Department may at its discretion modify the Certificate of Approval to increase or decrease the maximum number of children or young adults, within the limits prescribed in OAR 413-200-0276(1), the age range, or the gender of the children or young adults for whom the family is certified.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

413-200-0281

Alternate Caregivers

The certifier must:

(1) Discuss with the certified family the plan for providing care to a child or young adult, when the certified family will be unavailable to provide care.

(2) Effective October 1, 2008, assure completion of criminal records check, including information compiled and maintained by the Oregon State Police Bureau of Criminal Identification and a fingerprint-based criminal offender records check of national crime information databases as outlined in Child Welfare Policy I-G.1.4, "Criminal History", OAR 413-120-0460 on any person the certified family has identified to provide relief or respite care for the certified family; review the information, and, if needed and appropriate, obtain an exception as described in Child Welfare Policy I-G.1.4, "Criminal History", 413-120-0400 to 413-120-0470 and in 413-200-0274(6)(j)(A)-(D) prior to the individual providing relief or respite care.

(3) Conduct Child Abuse history background checks on any person the certified family has identified to provide relief or respite care as described in OAR 413-200-0274(6)(j)(A)-(D) and review the information to assure the person presents no safety concerns.

(4) Analyze information under sections (2) and (3) of this rule prior to determining the person is safe and appropriate to provide relief or respite care and authorizing the person to provide relief and respite care.

(5) Document the analysis under section (4) of this rule in the certification record.

(6) Notify the certified family of the authorization for the person identified to provide relief or respite care.

(7) Verify that any certified family identified to provide relief or respite care for another certified family has a current Certificate of Approval.

(8) When the analysis under section (4) of this rule results in a determination that the person is not either a safe or appropriate person to provide relief or respite care, notify the certified family that the person cannot be used to provide relief or respite care.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

413-200-0283

Responsibilities to Monitor Certification Compliance

(1) The certifier must monitor each certified family's compliance with Child Welfare Policy II B.1, "Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents", OAR 413-200-0301 to 413-200-0396. To monitor compliance, a certifier must:

(a) Conduct a minimum of one home visit every 180 days to assure compliance with Certification Standards.

(b) When a certified family has been approved to exceed the maximum number of children or young adults as prescribed in OAR 413-200-0276(1), conduct a minimum of one home visit every 90 days as long as the approval is applicable.

(c) Whenever it becomes known that the certified family wishes to become an in-home child care, an adult foster care, or in-home adult day care provider, assess the certified family's ability to maintain conditions in the home that provide safety and well-being for the child or young adult placed in the home by the Department and, when appropriate, obtain approval from the Child Welfare program manager or designee on a form approved by the Department, as described in OAR 413-200-0274(2)(n)(A)-(B) and (4)(n)(A)-(B) when appropriate.

(d) Whenever it becomes known that another agency wishes to place a child or young adult in a certified home, obtain approval from the Child Welfare program manager or designee on a form approved by the Department prior to the placement of the child or young adult.

(e) Effective October 1, 2008, whenever it becomes known that another adult is living in the household or the certified family identifies another relief or respite care provider, assure completion of a criminal records check, including information compiled and maintained by the Oregon State Police Bureau of Criminal Identification and a fingerprint-based criminal offender records check of national crime information databases as outlined

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in Child Welfare Policy I-G.1.4, "Criminal History", OAR 413-120-0460 and child abuse history background checks.

(2) To complete the monitoring responsibilities, the certifier must:

(a) Seek input from the caseworkers of children placed or living in the home during the past 180 days and assess the conditions that appear to exist in the home that provide safety and well-being for the child or young adult;

(b) Assess the information that the certifier learns from these contacts to determine whether conditions appear to exist in the home that provide safety and well-being for the child or young adult placed in the home by the Department;

(c) Review and assess the conditions that appear to exist in the home that provide safety and well-being for the child or young adult when any extraordinary circumstances described in OAR 413-200-0276(3)(a) exist; and

(d) Document the contacts with the certified family and the assessment information obtained under this rule in the certification record.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

413-200-0287

Responsibilities Regarding Two-Year Renewal of the Certificate of Approval

(1) A certified family must be assessed every two years. The Department must complete the assessment and provide written notice of the decision to renew a certificate approval or intent to deny the renewal of the certified family's certificate of approval, prior to expiration of the existing certificate. To renew a Certificate of Approval, the certifier must complete all of the following:

(a) Complete a home visit and have face-to-face contact with all members of the household.

(b) Review the completed Certified Family Certificate Renewal or Change of Status Application.

(c) Confirm completion of required hours of training, and develop a training plan for the new certification period.

(d) Assure completion of criminal records checks on each adult member of the household; and, at the Department's discretion, any child under 18, as described in Child Welfare Policy I G.1.4, "Criminal History", OAR 413-120-0400 to 413-120-0470. A fingerprint-based criminal offender records check of national crime information databases is not required for an application for renewal of a Certificate of Approval, unless an applicant or member of the household has lived outside of Oregon for more than 60 consecutive days within the two-year certification period or has been arrested or convicted during the two-year certification period.

(A) Assess any safety concerns regarding the applicant or member of the household; and

(B) Obtain an exception per OAR 413-120-0450(6) Criminal History Checks for any new criminal history conviction for an applicant or member of the household, if appropriate.

(e) Assure completion of Child Abuse History Background Checks for each adult member of the household.

(A) If the applicant or an adult member of the household has lived outside the state of Oregon in the previous five years, and an out-of-state child abuse history background check has not been completed, a child abuse history background check must be requested from each state or country where the individual resided in the last five years.

(B) Assess any safety concerns regarding the applicant or adult member of the applicant's household.

(C) If appropriate, obtain approval from the District Manager or designee, on a form approved by the Department, when Child Protective Services has concluded that a member of the applicant's household is the perpetrator of a Founded Disposition or has on his or her record an Unable to Determine Child Abuse or Neglect Disposition or similar disposition from another state to continue certification.

(f) Review and assess whether conditions appear to exist in the home that provide safety and well-being for the child or young adult.

(g) Review and analyze the certified family's skills and abilities in maintaining conditions in the home that provide safety and well-being for the child or young adult, maintaining relationships with the community and the Department, and supporting the child or young adult's case plan.

(h) Update the home study including results of the assessment completed in subsections (a) to (g) of this section and submit to the supervisor for approval.

(2) The supervisor reviews and may approve or deny the home study and, if he or she approves, the Department issues a two-year certificate of approval.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

413-200-0292

Responsibilities Regarding Recertification of a Previously Certified Home

(1) When a certified family has been closed less than six months, the previous Certificate of Approval would not have expired during the months the home was closed (if the Certificate of Approval was not revoked), the certified family continues to live in the same residence, and the certified family requests that the Department reopen the Certificate of Approval, the certifier must:

(a) Provide the family with a Certified Family Certificate Renewal or Change of Status Application;

(b) Complete criminal records checks, including a fingerprint-based criminal offender records check of both state and national crime information databases and child abuse history background checks on any new adult living in the household as described in OAR 413-200-274(2)(i)-(j) and when any adult member of the certified family has lived outside of Oregon for more than 60 consecutive days or has been arrested or convicted during the certification period.

(c) Conduct a home visit to identify and assess any changes in the environment or family;

(d) Observe and assess the safety of the physical environment and complete a safety assessment of the home; and

(e) Document in the certification file the circumstances that the Department reopened the Certificate of Approval.

(2) When a certified family has been closed for six months or more or the previous Certificate of Approval would have expired during the months the home was closed, and the previously certified family contacts the Department to become certified again, the certifier must:

(a) Provide the necessary documents for an initial application for a Certificate of Approval to provide care to the certified family for completion;

(b) Complete the assessment process as described in OAR 413-200-0274;

(c) Update the family's home study and document any changes in the family's circumstances since the most recent closure of the Certificate of Approval; and

(d) Submit the updated home study to the supervisor for approval.

(3) The supervisor reviews and may approve or deny the home study and, if he or she approves, issue a two-year Certificate of Approval.

(4) Foundations training is required if a family previously certified by the Department has not been certified within the last two years unless the supervisor waives the training requirement based on the family's documented knowledge and skills in caring for a child or young adult placed in the home by the Department.

(5) When the certified family moves to another residence in the State of Oregon, the Certificate of Approval automatically terminates. The Department may issue a new Certificate of Approval for the new residence after the activities described in this section have been completed. Within 14 working days, the certifier must:

(a) Provide the certified family a Certified Family Certificate Renewal or Change of Status Application;

(b) Review the completed Certified Family Certificate Renewal or Change of Status Application;

(c) Conduct a home visit and Safety Assessment prior to recommending a Certificate of Approval for the family to the supervisor; and

(d) Document in the certification file the circumstances of the family's relocation.

(6) When a certified family has been initially certified by the local Child Welfare office in the county in which the family resides and the family moves to another county, all of the following actions are required:

(a) The issuing Child Welfare office's certification supervisor must notify the certification supervisor in a Child Welfare office in the county to which the certified family is moving;

(b) The certification file and ongoing Department responsibilities are transferred to a Child Welfare office in the county to which the certified family is moving, unless the District Manager in the county to which the certified family is moving has approved that Department certification responsibilities remain in the Child Welfare office in the county from which the certified family is moving.

(c) Complete the actions described in section (5) of this rule.

(7) When a certified family wishes to move outside the State of Oregon with a child or young adult, refer to Child Welfare Policy I-B.3.4.2, "Interstate Compact on the Placement of Children", OAR 413-040-0200 to 413-040-0330.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

ADMINISTRATIVE RULES

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 25-2008(Temp)

Filed with Sec. of State: 10-1-2008

Certified to be Effective: 10-1-08 thru 3-30-09

Notice Publication Date:

Rules Amended: 413-200-0306, 413-200-0314, 413-200-0371, 413-200-0383

Subject: OAR 413-200-0306, 413-200-0314, 413-200-0371, and 413-200-0383 about the certification standards for foster parents, relative caregivers, and pre-adoptive parents are being amended to comply with new federal requirements effective October 1, 2008 governing the criminal background check process for prospective foster and adoptive homes. These rules are being amended to comply with the new federal law requiring that effective October 1, 2008 all applicants for a certificate of approval to provide foster care or relative care complete a fingerprint-based check of criminal history through the Federal Bureau of Investigation.

OAR 413-200-0306 about the definitions used in this rule division is being amended to restate the definition of "criminal records check" to include a fingerprint-based check of criminal history through the Federal Bureau of Investigation.

OAR 413-200-0314 about the process to apply for a certificate of approval to become a certified family is being amended to restate that the applicant and all adult members of the applicant's household must consent to a fingerprint-based check of criminal history through the Federal Bureau of Investigation. This rule is also being amended to restate that Department's policy that the applicant and all adult members of the applicant's household must provide information on prior allegations of child abuse and neglect and consent to a child abuse and neglect background check.

OAR 413-200-0371 about the responsibilities and notification requirements for selection and use of alternate caregivers is being amended to state that a certified family must consent to a fingerprint-based check of criminal history through the Federal Bureau of Investigation.

OAR 413-200-0383 about other required notifications is being amended to require a certified family to notify the certifier or the certifier's supervisor of any new relief or respite care provider.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-200-0306

Definitions

The following definitions apply to OAR 413-200-0301 to 413-200-0396:

(1) "Applicant" means an individual or individuals who apply for a Certificate of Approval to become a certified family.

(2) "Certificate of Approval" means a document that the Department issues to approve the operation of a child-specific relative caregiver home, child-specific foster home, pre-adoptive home, or a regular foster home.

(3) "Certified family" means an individual or individuals who hold a Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a child or young adult in the care or custody of the Department.

(4) "Certifier" means a Child Welfare employee who conducts assessments of applicants interested in providing relative or foster care to a child or young adult in the care or custody of the Department, determines whether or not to recommend approval of the operation of a relative care or foster home, and monitors the compliance of a relative care or foster care home with Child Welfare certification rules.

(5) "Child" means a person under 18 years of age.

(6) "Child-Specific Certificate of Approval" means a document authorizing an individual or individuals to operate a home to provide care for a specific child or young adult in the care or custody of the Department.

(7) "Criminal records check" means the process for obtaining and reviewing an individual's criminal history information and may include a fingerprint-based criminal offender records check of national crime information databases.

(8) "Department" means the Department of Human Services, Child Welfare.

(9) "Denial" means the refusal of the Department to issue or renew a Certificate of Approval to operate a home to provide care for a child or young adult in the care or custody of the Department.

(10) "Designee" means a person who the designator directly and immediately supervises, or a person with equal or greater management responsibility than the designator.

(11) "Discipline" means a training process a certified family uses to help a child or young adult develop the self control and self direction necessary to assume responsibilities, make daily living decisions, and learn to conform to accepted levels of social behavior.

(12) "Foster parent" means a person who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(13) "Inactive Referral Status" means a period of time, not to exceed 12 months, during which neither the Department nor any other agency will place an additional child or young adult with a certified family. The certified family or the Department may initiate the Inactive Referral Status.

(14) "Member of the household" means any adult or child living in the home, including any caregiving employees and volunteers who may reside in the home.

(15) "Physical restraint" means the act of restricting a child or young adult's voluntary movement as an emergency measure in order to manage and protect the child or young adult or others from injury when no alternate actions are sufficient to manage the child or young adult's behavior. "Physical restraint" does not include temporarily holding a child or young adult to assist him or her or assure his or her safety, such as preventing a child from running onto a busy street.

(16) "Pre-adoptive parent" means an individual with a current Certificate of Approval to operate a home to provide care for a child placed by the Department for purposes of adoption.

(17) "Psychotropic medication" means medication, the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including but not limited to, antipsychotic, antidepressant, and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed because it may have many different effects.

(18) "Relative caregiver" means a person who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(19) "Relief or Respite Care" means:

(a) A formal planned arrangement to relieve a certified family's responsibilities by a person temporarily assuming responsibility for the care and supervision of the child or young adult; or

(b) Assistance provided by a person who comes into the home of the certified family to care for the child or young adult in the care or custody of the Department.

(20) "Revocation" means an administrative act by the Department that rescinds an existing Certificate of Approval.

(21) "Surrogate" means a person who has been appointed to safeguard a child's rights in the special education decision-making process. The person may be appointed pursuant to OAR 581-015-2320 for school-age children, 581-015-2760 for preschool children, or by the juvenile court under ORS 419B.220.

(22) "Young adult" means a person aged 18 through 20 years who remains in the care and custody of the Department, and lives in substitute care or lives independently through the Department's Independent Living Subsidy Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 11-2007(Temp), f. & cert. ef. 6-1-07 thru 11-27-07; Suspended by CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 25-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

413-200-0314

Process to Apply for a Certificate of Approval

(1) To become a certified family, the applicant must:

(a) Apply for certification in the county of the applicant's residence, except as provided in OAR 413-200-0274(2)(o)(A) and 413-200-0274(4)(o)(A);

(b) Complete a Department application;

(c) Provide the names and contact information of four references, two of whom may be relatives of the applicant, who can attest to the applicant's character and ability to provide safe and protective care for a child or young adult, and the names and contact information of at least two persons with whom the certified family is likely to remain in contact if displaced due to a natural disaster;

(d) Complete all required paperwork requested by the Department;

(e) Allow Department staff to conduct an in home safety assessment of conditions that appear to exist in the home that provide safety and well-being for the child or young adult;

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(f) Allow Department staff to have face-to-face contact with all members of the applicant's household;

(g) Provide social and family history information to the Department; and

(h) Provide information about any current or previous licenses, certifications, or applications for relative care, foster care, day care, adoption, or any other types of services for vulnerable individuals including adult care giving. Information must include the organization's name, any denials, suspensions, revocations, or terminations.

(2) The applicant and all adult members of the applicant's household must have face-to-face contact with a Department certifier and must provide:

(a) Information regarding criminal involvement, including arrests and convictions regarding any member of the household; and

(b) Effective October 1, 2008, must consent to a criminal records check, including information compiled and maintained by the Oregon State Police Bureau of Criminal Identification and a fingerprint-based criminal offender records check of national crime information databases as outlined in Child Welfare Policy, I-G.1.4, "Criminal History", OAR 413-120-0460.

(3) The applicant must allow the Department, at its discretion, to gather information regarding the criminal records of any child under 18 who lives in the household.

(4) The applicant and all adult members of the applicant's household must provide:

(a) Information regarding any previous allegations of child abuse and neglect; and

(b) Consent to a child abuse and neglect background check.

(5) Withdrawal of Application. Applicants who have applied or are applying for a Certificate of Approval may voluntarily withdraw their application to provide care for a child or young adult. The applicant must provide their voluntary withdrawal notice:

(a) On a form provided by the Department;

(b) In a written format of their choice; or

(c) Verbally to a certifier or certifier's supervisor.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; Renumbered from 413-200-0381, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 25-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

413-200-0371

Responsibilities and Notification Requirements for Selection and Use of Alternate Caregivers

(1) Except as provided in section (2) of this rule, the certified family is responsible for identifying and selecting safe and responsible alternate caregivers for a child or young adult placed in their home, and take into consideration:

(a) Each child or young adult's age, special needs, attachment, and individual behaviors; and

(b) The length of time that the child or young adult will be with the alternate caregivers described in this rule.

(2) The Department may determine that a particular alternate caregiver is inappropriate based upon the needs of the child or young adult.

(3) Responsibilities when Using a Babysitter.

(a) The certified family must use a responsible person 14 years of age or older for short-term intermittent child care, and must:

(A) Have an available method through which they may be contacted in an emergency;

(B) Assure the babysitter is capable of assuming child care responsibilities required to meet the needs of the children in the certified family's home, and will be present at all times; and

(C) Assure the babysitter does not provide overnight care.

(b) A babysitter does not need to complete a criminal history background check.

(4) Responsibilities and notification requirements when using Relief Care or Respite Care.

(a) The certified family must select a relief or respite caregiver who is:

(A) At least 18 years of age;

(B) Capable of assuming child care responsibilities, including meeting any special needs of each child or young adult in the certified family's care; and

(C) Present at all times.

(b) The certified family must:

(A) Have an available method through which they may be contacted in an emergency; and

(B) Provide to the Department the name, address, and telephone number of the relief or respite caregiver for the purpose of the Department's conducting a criminal records check, including information compiled and maintained by Oregon State Police Bureau of Criminal Identification and a fingerprint-based criminal offender records check of national crime infor-

mation databases as outlined in Child Welfare Policy, I-G.1.4, "Criminal History", OAR 413-120-0460 and child abuse and neglect history check, prior to the person providing relief or respite care.

(c) The certified family must receive Department approval prior to using a relief or respite caregiver.

(5) A certified family may use a licensed, registered, or approved childcare center or day care provider for a child or young adult and must notify the Department in advance of using the licensed childcare center or day care provider.

(6) Family and childhood activities.

(a) The certified family may give consent for a child or young adult in the Department's care or custody to participate in ordinary childhood activities, such as sleepovers with friends and organized activities provided by schools, churches, civic organizations, scouts, or similar groups.

(b) The certified family must verify that the event is safe, adequately supervised, and appropriate for the child or young adult based upon his or her needs.

(c) When the certified family has any questions regarding the child or young adult participating in the activity, the family must consult with the child or young adult's caseworker.

(7) The certified family must notify the child or young adult's caseworker prior to the child or young adult being absent from the certified family for more than 24 hours.

(8) The certified family is responsible for notifying the certifier or the certifier's supervisor in advance when the certified family plans to provide relief or respite care for another certified family and the number of children or young adults in the home will exceed the maximum number of children or young adults on the certified family's Certificate of Approval.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; SOSCF 15-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 29-2003, f. 7-31-03 cert. ef. 8-1-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 25-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

413-200-0383

Other Required Notifications

A certified family must notify the certifier or certifier's supervisor of all of the following:

(1) Any person joining or leaving the household.

(2) Any new relief or respite care provider.

(3) Any anticipated change in address.

(4) Any physical or structural changes in the home in which they live.

(5) Any arrests or court convictions for any member of the household.

This notification must occur within one working day.

(6) Any known allegation of child abuse or neglect perpetrated by any member of the household, or an individual who regularly visits the home. Such notification must occur on the day that the certified family learns of the allegation.

(7) The suspension of a driver's license of any adult on the Certificate of Approval or any member of the household.

(8) Any change in the physical or mental health of a member of the household that reasonably could affect the member's or the family's ability to meet the needs of safety, health, and well-being of a child or young adult.

(9) Any time any member of the household applies to become an in-home child care provider, an adult foster care, or in-home adult day care provider, in order to obtain the approval of the Department prior to providing such care.

(10) Any time another agency wishes to place a child or young adult in the certified home, in order to obtain the approval of the Department prior to providing such care.

(11) Any time the certified family agrees to provide relief or respite care for another certified family.

(12) Any other circumstance that could reasonably affect the safety or well-being of a child or young adult in the certified family's home.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005 - 418.640

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 25-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 26-2008

Filed with Sec. of State: 10-1-2008

Certified to be Effective: 10-1-08

Notice Publication Date: 9-1-2008

Rules Amended: 413-200-0424

Rules Repealed: 413-200-0424(T)

ADMINISTRATIVE RULES

Subject: OAR 413-200-0424 about the Department's actions at the conclusion of the child protective services assessment is being amended to make permanent a temporary rule change adopted on July 17, 2008 and correctly state the Department's policy regarding the type of dispositions that need management approval for a certified family to maintain a certificate of approval by correcting a typographical error.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-200-0424

Department Actions at the Conclusion of the CPS Assessment

(1) CPS Worker and Supervisor Actions.

(a) In addition to the actions required in Child Welfare Policy I-AB.4, "CPS Assessment", OAR 413-015-0400 to 413-015-0485, the CPS worker must convene a staffing within five business days of the completion of the CPS assessment to:

(A) Share information acquired during the CPS assessment, and the results of the CPS assessment;

(B) Discuss and determine whether any additional actions described in Child Welfare Policy I-AB.4, "CPS Assessment", OAR 413-015-0400 to 413-015-0485 are appropriate;

(C) Determine who needs to be notified of the disposition of the CPS assessment and determine which staff will be responsible for providing notification;

(D) Discuss certification actions that have been taken and whether any additional actions described in Child Welfare Policy II-B.1.1, "Department Responsibilities for Certification and Supervision of Relative Caregivers, Foster Parents, and Pre-Adoptive Parents", OAR 413-200-0270 to 413-200-0296 are appropriate.

(b) The CPS worker must ensure that the following staff members are invited to the staffing:

(A) The CPS supervisor;

(B) The assigned certifier or the certification supervisor; and

(C) The caseworkers assigned to each child or young adult placed in the home of the certified family or their respective supervisors.

(c) The CPS supervisor or his or her designee must:

(A) Ensure that the staffing, discussed in subsection (a) of this section occurs;

(B) Determine whether the Child Welfare Program Manager, CPS Consultant, and Foster Care Coordinator should be invited to the staffing; and

(C) Approve notification of the following individuals of the disposition of the CPS assessment:

(i) The attorney for the child;

(ii) The court appointed special advocate (CASA) for the child;

(iii) The child's parents;

(iv) Any attorney representing the child's parents; and

(v) If the disclosure is authorized by ORS 419B.035, others who are involved in the case plan as necessary.

(D) The supervisor may authorize an exception to the notification of a child's parents and any attorney representing a child's parents required in paragraph (C) of this subsection if the notification may interfere with an investigation or assessment or jeopardize the child's safety.

(d) At the conclusion of any CPS assessment, regardless of the disposition, the CPS supervisor must immediately forward a copy of the Out of Home Care Investigation Report to the assigned caseworkers, the certifier, the CPS Consultant, and the Foster Care Coordinator.

(2) Assigned Caseworker Actions.

(a) Within ten business days of the Department determining the disposition of a CPS assessment involving the alleged abuse of a child placed in the home of a certified family, the caseworker for the child must notify the individuals identified in paragraph (1)(c)(C) of this rule of the disposition unless an exception, described in paragraph (1)(c)(D) of this rule, is authorized by the CPS supervisor or his or her designee.

(b) Within ten business days of the conclusion of a law enforcement determination involving the alleged abuse of a young adult placed in the home of a certified family, the caseworker for the young adult must notify the individuals identified in paragraph (1)(c)(C) of this rule of the disposition, unless notification may interfere with an investigation or assessment or jeopardize the young adult's safety is authorized by the caseworker's supervisor.

(3) Certifier and Certification Supervisor Actions.

(a) At the conclusion of the CPS assessment, during or within five business days of the meeting required in subsection (1)(a) of this rule, the certifier and certification supervisor must:

(A) Staff the case and review all the information gathered during the CPS assessment;

(B) Determine whether the information indicates certification actions described in Child Welfare Policy II-B.1.1, "Department Responsibilities

for Certification and Supervision of Relative Caregivers, Foster Parents, and Pre-Adoptive Parents", OAR 413-200-0270 to 413-200-0296 should be taken; and

(C) Assure documentation of the results of the staffing in FACIS provider's notes and in the certification file.

(b) After completing the staffing required in subsection (1)(a) of this rule, if the Department determines:

(A) That the Certificate of Approval for the certified family should be revoked, the assigned certifier must initiate revocation of the Certificate of Approval as described in Child Welfare Policy II-B.1.1, "Department Responsibilities for Certification and Supervision of Relative Caregivers, Foster Parents, and Pre-Adoptive Parents", OAR 413-200-0296.

(B) That inactive referral status should continue because one or more of the conditions in Child Welfare Policy II-B.1.1, "Department Responsibilities for Certification and Supervision of Relative Caregivers, Foster Parents, and Pre-Adoptive Parents", OAR 413-200-0294 are present, the assigned certifier must summarize the outcome of the assessment and the reasons for continuing inactive referral status in a letter delivered to the certified family within 10 days of receiving the completed CPS assessment. The certifier must retain a copy of the letter in the certification file.

(C) That the certificate will not be revoked after a founded or unable to determine disposition, the assigned certifier must:

(i) Submit written documentation supporting the continued certification of the certified family to the District Manager, Assistant District Manager, or Child Welfare Program Manager for approval;

(ii) Upon receiving approval for continued certification from the District Manager, Assistant District Manager, or Child Welfare Program Manager, remove the certified family from inactive referral status;

(iii) Within ten business days of receiving approval from the District Manager, Assistant District Manager, or Child Welfare Program Manager, send written notification to the certified family that the home is no longer on inactive referral status and retain a copy of the written notification in the certification file; and

(iv) Notify Department staff responsible for placement that the certified family is no longer on inactive referral status.

(4) The CPS worker or supervisor, and the certifier or supervisor must meet with the certified family within ten business days of the completion of the CPS assessment to explain the disposition and any certification actions that will be taken unless the certified family declines the opportunity for a meeting.

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.015 & 419B.020

Hist.: CWP 33-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 15-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 17-2008(Temp), f. & cert. ef. 7-17-08 thru 1-13-09; CWP 26-2008, f. & cert. ef. 10-1-08

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 27-2008

Filed with Sec. of State: 10-3-2008

Certified to be Effective: 10-3-08

Notice Publication Date: 9-1-2008

Rules Amended: 413-015-1110, 413-015-1120

Subject: OAR 413-015-1110 is about the definitions that apply to the Department's Child Welfare Policy I-AB-6, Access to Law Enforcement Data System (LEDS) in Local Child Welfare Offices, OAR 413-015-1100 to 413-015-1125. OAR 413-015-1110 needs to be amended to implement ORS 181.557 as amended by HB 2179 (2007), that changed who is subject to LEDS checks, when notice must be provided to the subject of a LEDS check, how that notice must be delivered to the subject and procedures the subject can use to acquire and dispute the LEDS report. OAR 413-015-1110 is being amended to clarify the definition of notice and reflect the changes in how the notice must be provided to the subject and to inform subjects of the procedures to acquire and dispute the LEDS report.

OAR 413-015-1120 is about how the Law Enforcement Data System (LEDS) is used by Child Protective Services, including who is subject to having LEDS checks, when LEDS checks are used and when notice must be provided to the subject of a LEDS check. OAR 413-015-1120 needs to be amended to implement ORS 181.557 as amended by HB 2179 (2007), that changed who is subject to LEDS checks, when notice must be provided to the subject of a LEDS check, how that notice must be delivered to the subject and procedures the subject can use to acquire and dispute the LEDS report. OAR 413-015-1120 is being amended to reflect the changes in who is subject to LEDS checks and when the notice must be provided to

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the subject of the check. The current rules require the Department to provide subject individuals with prior written notice before a criminal check is run in the context of a child abuse or welfare investigation. OAR 413-015-1120 as amended will allow the Department to conduct LEDS checks before providing subjects with notice and relates the timelines for providing notice to subjects after a LEDS check has been performed.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-015-1110

Definitions

The following definitions apply to OAR 413-015-1100 to 413-015-1125:

(1) "LEDS" means Law Enforcement Data System, the computerized criminal history information system maintained by the Oregon State Police.

(2) "LEDS representative" means the staff person in the local Department office who has been designated under OAR 257-015-0050(5) by the Assistant DHS Director for the Children, Adults and Families Division and who has completed the training required by the Oregon State Police in order to train other employees to be LEDS users.

(3) "LEDS user" means a staff person in the local Department office who has been trained by a LEDS representative and has been certified by the Oregon State Police to access LEDS information.

(4) "Notice" means a written statement hand delivered to the subject individual or sent via U.S. mail to his or her last known address informing the subject individual of subsections (a) through (c) below. Notice does not imply consent or permission on the part of the subject individual.

(a) The Department may conduct, or has already conducted, criminal records checks.

(b) The subject individual has the right to obtain a copy of his or her LEDS record and challenge information in the record by contacting the Oregon State Police.

(c) The subject individual may have rights under Title VII of the Civil Rights Act of 1964 and may obtain information about these rights by contacting the Oregon Bureau of Labor and Industries or the U.S. Equal Employment Opportunity Commission.

Stat. Auth.: ORS 181.537, 181.557, 409.050, 418.005 & 419B.020

Stats. Implemented: ORS 181.537, 181.557, 409.010, 418.005 & 419B.020

Hist.: CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 27-2008, f. & cert. ef. 10-3-08

413-015-1120

LEDS Use for Child Protective Service Purposes

(1) The local Child Welfare office may conduct criminal records checks on a subject individual using the LEDS system available in the local office and use LEDS information pertaining to a subject individual for the purpose of making decisions about child safety specifically related to Child Protective Services when a:

(a) Child abuse allegation is being assessed; or

(b) Child Welfare case is open.

(2) When conducting criminal records checks for a Child Protective Services purpose under this rule, a subject individual is defined as a person:

(a) Alleged to be the perpetrator of child abuse or neglect when the allegation is being assessed by Child Protective Services;

(b) Residing in or frequenting a household where the alleged victim of child abuse resides on a full- or part-time basis; or

(c) In the household to which a child is being returned.

(3) Timelines for providing written notice to a subject individual when a criminal records check is conducted for a Child Protective Services purpose:

(a) Prior to the conclusion of an assessment of a child abuse allegation: Notice as defined at OAR 413-015-1110(4) must be provided to the subject individual no later than seven working days after the date the check was conducted.

(b) After the conclusion of an assessment of a child abuse allegation and while a Child Welfare case is still open: Notice as defined at OAR 413-015-1110(4) must be provided to the subject individual before the check is conducted.

Stat. Auth.: ORS 181.537, 181.557, 409.050, 418.005 & 419B.020

Stats. Implemented: ORS 181.537, 181.557, 409.010, 418.005 & 419B.020

Hist.: CWP 1-2005(Temp), f. & cert. ef. 1-28-05 thru 7-27-05; CWP 8-2005, f. & cert. ef. 7-28-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 27-2008, f. & cert. ef. 10-3-08

Department of Human Services, Children, Adults and Families Division: Self-Sufficiency Programs Chapter 461

Rule Caption: Changing OARs affecting public assistance, medical assistance or food stamp clients.

Adm. Order No.: SSP 21-2008(Temp)

Filed with Sec. of State: 10-1-2008

Certified to be Effective: 10-1-08 thru 1-28-09

Notice Publication Date:

Rules Amended: 461-155-0500

Rules Suspended: 461-155-0500(T)

Subject: OAR 461-155-0500 is an overview rule about special needs payments in the General Assistance (GA), General Assistance Medical (GAM), Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM), Refugee Assistance (REF), Refugee Assistance Medical (REFM), and Temporary Assistance for Needy Families (TANF) programs. This rule is being amended to cross-reference to newly adopted OAR 461-155-0710 about special needs payments in the OSIP and OSIPM programs.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-155-0500

Special Needs; Overview

(1) In the GA, GAM, MAA, MAF, OSIP, OSIPM, REF, REFM, and TANF programs, special needs are needs not included in the basic standard. They may be one-time needs or ongoing needs.

(2) Ongoing special needs are needs that last several months at a consistent cost. Examples are special diets and accommodation allowances. OAR 461-155-0010 is used to determine how special needs are considered for each program.

(3) To be eligible for a special need item, clients must have no other available resources in the community or in their natural support system to meet the need, excluding resources used in determining eligibility.

(4) To be eligible for a special need item, clients must not be eligible for the item through Medicare, Medicaid, or any other medical coverage.

(5) Clients may be eligible for an ongoing special need item if providing the ongoing special need item is authorized in lieu of additional provider service hours pursuant to OAR 411-030-0002 through 411-030-0090 and is more cost-effective.

(6) The Department will authorize payment for one-time and ongoing special needs for the following, in accordance with OAR 461-155-0510 through 461-155-0700:

(a) One-time needs for the following:

(A) Community based facility room and board (see OAR 461-155-0630)

(B) Community transition services (see OAR 461-155-0526)

(C) Diversion and transition services (see OAR 461-155-0710)

(D) Home adaptations to accommodate a client's physical condition (see OAR 461-155-0551).

(E) Home repairs (see OAR 461-155-0600)

(F) Moving costs (see OAR 461-155-0610)

(G) Property taxes (see OAR 461-155-0620)

(b) Ongoing needs for the following:

(A) Accommodation allowances (see OAR 461-155-0660)

(B) Food for guide dogs and special assistance animals (see OAR 461-155-0530)

(C) Laundry allowances (see OAR 461-155-0580)

(D) Personal Incidentals and Room and Board Allowance (see OAR 461-155-0700)

(E) Restaurant meals (see OAR 461-155-0640)

(F) Special diet allowances (see OAR 461-155-0670)

(G) Telephone allowances (see OAR 461-155-0680)

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060 & 411.070

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 16-2002(Temp), f. & cert. ef. 11-1-02 thru 4-30-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 18-2008(Temp), f. & cert. ef. 8-1-08 thru 1-28-09; SSP 21-2008(Temp), f. & cert. ef. 10-1-08 thru 1-28-09

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Rule Caption: Changing OARs affecting public assistance, medical assistance or food stamp clients.

Adm. Order No.: SSP 22-2008(Temp)

Filed with Sec. of State: 10-1-2008

Certified to be Effective: 10-1-08 thru 3-30-09

Notice Publication Date:

Rules Adopted: 461-155-0710

Rules Amended: 461-135-0075

Subject: OAR 461-135-0075 about the 60-month limitation on the period of eligibility in the Temporary Assistance for Needy Families (TANF) program is being amended to comply with changes in federal law that become effective October 1, 2008. This rule is being amended to allow an exception to counting months toward the 60 month period for months in which the program participant is caring for a family member with a disability who lives in the participant's home, even when the family member with a disability is attending school fulltime.

OAR 461-155-0710 is being adopted to support placement of Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM - serving the elderly and people with disabilities) clients who need long-term care services, in their homes or in community-based care facilities rather than in nursing facilities. This rule is being adopted to allow for discretionary special needs payments with the purpose of preventing or transitioning from a nursing facility placement.

Rules Coordinator: Annette Tesch — (503) 945-6067

461-135-0075

Limitation on Eligibility Period; TANF

(1) A minor parent head of household or an adult may not receive a TANF grant in Oregon if the minor parent head of household or adult has received a TANF grant in excess of 60 months except as allowed in this rule.

(2) The following months do not count toward the time limit in section (1) of this rule:

(a) Months prior to July 1, 2003 in which a minor parent head of household or an adult received a TANF grant in Oregon or another state.

(b) Months between July 1, 2003 and September 30, 2007 in which a minor parent head of household or adult received TANF in Oregon; and

(A) Participated in required JOBS activities or other education, employment, or job training program including teen parent programs; or

(B) Was not required to participate in JOBS activities or other education, employment, or job training program including teen parent programs.

(c) Months beginning July 1, 2003 in which the family resided in Indian Country (as defined in 18 U.S.C. 1151) and 50 percent or more of the adult residents of that area were unemployed.

(d) Months beginning October 1, 2007 in which the minor parent head of household or adult is a participant in the Oregon JOBS Plus, Pre-TANF, Post-TANF, or SFPSS programs.

(e) Months beginning October 1, 2007 in which the filing group (see OAR 461-110-0330) is a two-parent family receiving cash assistance in Oregon for which deprivation is based on unemployment or underemployment of the primary wage earner.

(f) Months beginning October 1, 2007 in which the individual who is now a parent or pregnant was in that month a minor child and neither the head of a household nor married to the head of a household.

(g) Months beginning October 1, 2007 in which a minor parent head of household or adult receives aid in Oregon and is a participant in the Degree Completion Initiative (DCI) activity (see OAR 461-001-0025) enrolled in an educational institution consistent with OAR 461-190-0195.

(h) Months beginning October 1, 2007 in which the individual is unable to obtain or maintain employment for a sufficient number of hours in a month to satisfy the federally required participation rates (see OAR 461-001-0025) because the individual:

(A) Is a victim of domestic violence (see OAR 461-001-0000);

(B) Has a certified learning disability;

(C) Has a verified alcohol and drug or mental health condition;

(D) Has a disability (see OAR 461-001-0000);

(E) Has a child with a disability, which prevents the parent from obtaining or keeping employment;

(F) Is providing care for a family member who lives in the home and has a disability;

(G) Is deprived of needed medical care; or

(H) Is subjected to battery or extreme cruelty. For purposes of this rule, an individual is subjected to battery or extreme cruelty if the individual has been subjected to one or more of the following:

(i) Physical acts that resulted in, or threatened to result in, physical injury to the individual.

(ii) Sexual abuse.

(iii) Sexual activity involving a dependent child.

(iv) Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.

(v) Threats of, or attempts at, physical or sexual abuse.

(vi) Mental abuse.

(vii) Neglect or deprivation of medical care.

(3) Months that do not count toward the time limit based on a condition described in paragraphs (2)(h)(B) to (2)(h)(F) of this rule require documentation from a licensed or certified professional qualified to make such a determination.

(4) A minor parent head of household or an adult may not be denied a TANF grant under section (1) of this rule during months that qualify as exempt from time limits under sections (2), and (3) of this rule.

(5) Each minor parent head of household and adult who qualifies for a TANF grant under this rule must also meet all other TANF eligibility requirements and cooperate with the requirements of his or her case plan, unless good cause (see OAR 461-130-0327) exists.

(6) Except as provided otherwise in section (4) of this rule, a minor parent head of household or an adult in the benefit group who exceeds the 60-month time limit is removed from the need group (see OAR 461-110-0630). When a minor head of household or adult is removed from the need group under this section, the remaining need group members may continue to receive TANF benefits.

(7) If a minor parent head of household or adult qualifies under sections (2), (3), or (4) of this rule, any disqualifications that have been accrued for the benefit group remain in place.

Stat. Auth.: ORS 411.060, 418.100, 418.131

Stats. Implemented: ORS 411.060, 411.117, 418.100, 418.131

Hist.: AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

461-155-0710

Special Need; Diversion and Transition Services; OSIP and OSIPM

In the OSIP and OSIPM programs:

(1) The Department may authorize one-time payments for expenses that the Department has determined are necessary to divert or transition individuals from nursing facility services. Payments are allowed for clients who are receiving or eligible to receive community based care (see OAR 461-001-0000).

(2) Payments will be authorized at the lowest possible cost.

(3) To be eligible for payment, clients may not be eligible for the item through Medicare, Medicaid, or any other medical coverage.

(4) Payment for a household item is not allowed if the community based care facility is required to provide the item by contract or administrative rule.

(5) Payment is not allowed if the item or service may be provided under any other special needs rule in this division (OAR 461-155-0510 to 461-155-0700).

(6) Payments must be approved in advance by Seniors and People with Disabilities Division central office staff.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.070

Hist.: SSP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09

Rule Caption: Changing OARs affecting public assistance, medical assistance or food stamp clients.

Adm. Order No.: SSP 23-2008

Filed with Sec. of State: 10-1-2008

Certified to be Effective: 10-1-08

Notice Publication Date: 8-1-2008

Rules Adopted: 461-160-0552, 461-190-0199

Rules Amended: 461-001-0000, 461-001-0035, 461-101-0010, 461-110-0370, 461-115-0030, 461-120-0130, 461-120-0510, 461-130-0310, 461-135-0010, 461-135-0082, 461-135-0400, 461-135-0493, 461-135-0494, 461-135-0506, 461-135-0506, 461-135-0930, 461-135-0990, 461-135-1235, 461-140-0296, 461-145-0080, 461-145-0130, 461-145-0150, 461-145-0330, 461-145-0380, 461-145-0410, 461-145-0470, 461-145-0490, 461-145-0600, 461-155-0020, 461-155-0150, 461-155-0190, 461-155-0250, 461-155-0360, 461-155-0660, 461-160-0040, 461-160-0200, 461-160-0420, 461-160-0430, 461-160-0550,

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461-160-0551, 461-160-0610, 461-165-0060, 461-170-0015, 461-170-0020, 461-170-0100, 461-170-0101, 461-170-0150, 461-175-0340, 461-180-0070, 461-190-0211, 461-190-0231

Rules Repealed: 461-115-0015, 461-135-0401, 461-190-0195, 461-190-0199(T)

Rules Ren. & Amend: 461-145-0265 to 461-145-0145

Subject: OAR 461-001-0000 about the definition of terms is being amended to restate the definition for the term “nonstandard living arrangement” in the General Assistance (GA), General Assistance Medical (GAM), Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM), and Qualified Medicare Beneficiaries (QMB) programs.

OAR 461-001-0035 about definitions of terms used in the Oregon Supplemental Income Program-Employed Persons with Disabilities (OSIP-EPD) program and Oregon Supplemental Income Program Medical-Employed Persons with Disabilities (OSIPM-EPD) program is being amended to remove the definitions of cost share and premium and add a definition of participant fee. This rule is also being amended to replace old terminology with new terminology, add cross-references to other rules and laws, and follow standard formatting.

OAR 461-101-0010 about program acronyms is being amended to comply with the Food, Conservation, and Energy Act of 2008. Changing this rule introduces the new federal name of the Food Stamp program. This rule is also being amended to remove references to Employment Related Day Care-Student Block Grant (ERDC-SBG) and Student Child Care Program to bring policies up to date as this program is no longer administered by the Department of Human Services. It was moved to Oregon Student Assistance Commission effective December 31, 2007.

OAR 461-110-0370 about filing groups in the Food Stamp program, OAR 461-155-0190 about income and payment standards in the Food Stamp program, and OAR 461-160-0430 about income deductions in the Food Stamp program are being amended to comply with Food, Conservation, and Energy Act of 2008 by implementing the annual increase in the standards for the Food Stamp program.

OAR 461-115-0015 and 461-135-0401 are being repealed and OAR 461-115-0030, 461-120-0130, 461-135-0400, 461-155-0150, 461-160-0040, 461-170-0015, 461-170-0150, and 461-180-0070 are being amended to remove references to Employment Related Day Care-Student Block Grant (ERDC-SBG) and Student Child Care Program to bring policies up to date as this program is no longer administered by the Department of Human Services. This program was moved to Oregon Student Assistance Commission effective December 31, 2007.

OAR 461-120-0510 about the age requirements for clients to receive benefits in the Department’s public assistance, medical, and Food Stamp programs is being amended to restate the Department’s policy regarding which individuals may be eligible for the Refugee Assistance (REF) program. This rule is being amended to add refugees who are part of an ineligible TANF filing group to the individuals who may be eligible for the REF program, and to clarify that in order to be eligible for the REF program a minor must be legally emancipated.

OAR 461-130-0310 is about the participation categories of exempt, mandatory, and volunteer in the employment programs of the Department’s Food Stamp, Pre-Temporary Assistance for Needy Families (Pre-TANF), Refugee Assistance (REF), and Temporary Assistance for Needy Families (TANF) programs. This rule is being amended to comply with federal regulations by removing the “not attending school full time” requirement from the parental exemption from participation when the parent is caring for a family member who lives at home and has a disability.

OAR 461-135-0010 about assumed eligibility for medical programs is being amended to clarify the Department’s policy and make the Department’s policy consistent with the Department’s practice. This rule is being amended to clarify that clients who receive Ore-

gon Health Plan standard benefits (OHP-OPU) who become pregnant are assumed eligible for Medicaid once they have documented their pregnancy, and that OHP-OPU clients who become pregnant will be converted to OHP-OPP as an assumed eligible Medicaid client.

OAR 461-135-0082 about the eligibility for the Refugee Case Services Program is being amended to replace old terminology with new terminology and eliminate unnecessary wording.

OAR 461-135-0493 and 461-135-0494 are about the eligibility criteria and benefit amount for the Disaster Food Stamp program and how to treat households that are already receiving food stamp benefits. These rules are being amended to incorporate new guidance for the program received from the United States Department of Agriculture, Food and Nutrition Services (FNS). The list of disaster-related expenses in OAR 461-135-0493 is being expanded and the cost of food as an expense is being removed. A cross reference for the replacement of destroyed food purchased with food stamp benefits is being added to OAR 461-135-0494, which is also being amended to clarify the calculation of disaster benefits for households who are already receiving food stamp benefits.

OAR 461-135-0506 about the Transitional Benefits Alternative (TBA) is being amended to state that households that receive state-funded cash assistance from the Temporary Assistance for Needy Families (TANF) program are now eligible to receive TBA benefits when they leave TANF. Without this amendment, TBA eligibility is limited to households that received cash assistance funded by Title IV-A of the Social Security Act.

OAR 461-135-0930 about the medical coverage for the Refugee Assistance Medical (REFM) program is being amended to replace old terminology with new terminology and eliminate unnecessary wording.

OAR 461-135-0990 about reimbursing clients in certain medical programs for the cost of health insurance premiums sponsored by the client’s employer is being amended to change the Department’s policy for the Refugee Assistance Medical (REFM) program. This rule is being amended so that the Department will not reimburse REFM clients for the cost of employer sponsored health insurance premiums.

OAR 461-135-1235 about hearing rights in the Temporary Assistance for Domestic Violence Survivors (TA-DVS) program is being amended to replace old terminology with new terminology.

OAR 461-140-0296 about the length of disqualification due to an asset transfer in the General Assistance (GA), General Assistance Medical (GAM), Oregon Supplemental Income Program (OSIP), and Oregon Supplemental Income Program Medical (OSIPM) programs is being amended to update the amount used to calculate the number of months of ineligibility due to a disqualifying transfer of assets. This amount is calculated by using the average monthly cost to a private patient of nursing facility services in Oregon.

OAR 461-145-0080 about the treatment of child support and cash medical support in the Department’s public assistance, medical, and Food Stamp programs is being amended to implement the provisions of HB 2469, 2007 Or. Laws ch. 861, by restating the treatment of child support in the Food Stamp, Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), Refugee Assistance (REF), Refugee Assistance Medical (REFM), Medical Coverage for Children in Substitute or Adoptive Care (SAC), and Temporary Assistance for Needy Families (TANF) programs. This rule is also being amended to define the terms “pass through” and “disregard” and state when clients may receive a pass-through or disregard of their child support.

OAR 461-145-0130 about the treatment of earned income in the Department’s public assistance, medical, and Food Stamp programs is being amended to restate the Department’s policy on the treatment of the income of temporary employees of the U.S. Census Bureau employed to assist in taking the census. This rule is also being amended to restate the Department’s policy regarding the treatment of earned income in the Medical Assistance Assumed (MAA) and

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Medical Assistance to Families (MAF) programs. This rule is being amended to implement the provisions of HB 2469 (2007 Or Laws Ch 861) by clarifying that an increase in hours of employment or increased earnings is excluded for individuals who are currently receiving MAA or MAF medical benefits and who go over the income limit prior to meeting three of six months MAA or MAF eligibility. Currently, an individual must meet the last three of six months MAA or MAF eligibility in order to be eligible for EXT. With the new amendment, the Department can exclude income in order for the client to be eligible for EXT. This will allow at least six months extended medical benefits.

OAR 461-145-0150 about the treatment of educational income is being amended to state the Department's policy for the treatment of educational income for the Parents as Scholars (PAS) component of the Job Opportunity and Basic Skills Program (JOBS) program.

OAR 461-145-0265 about the treatment of educational accounts is being amended and renumbered as 461-145-0145 to comply with the Food, Conservation, and Energy Act of 2008 by restating the Department's policy on the treatment of Educational Accounts in the Food Stamp program.

OAR 461-145-0330 about the treatment of loans and interest on loans in the Department's public assistance, medical, and Food Stamp programs is being amended to align the Department's policy with federal policy by restating the Department's policy on the treatment of loans and interest on loans.

OAR 461-145-0380 about the treatment of pension and retirement plans is being amended to comply with the Food, Conservation, and Energy Act of 2008 by restating the Department's policy on the treatment of pension and retirement plans in the Food Stamp program.

OAR 461-145-0410 about the treatment of program benefits is being amended to revise the Department's policy on the treatment of Oregon Supplemental Income Program-Independent Choices (OSIP-IC) benefits in the Food Stamp program.

OAR 461-145-0470 about the treatment of shelter-in-kind income is being amended to restate the Department's policy related to counting shelter-in-kind income when prorated standards are used in the Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM), and Qualified Medicare Beneficiary (QMB) programs. This rule is being amended to clarify that shelter-in-kind income is not counted in situations where prorated standards are used.

OAR 461-145-0490 about the treatment of Social Security Benefits is being amended to restate the Department's policy on the treatment of representative payee fees in the Food Stamp program. This rule is being amended to restate the Department's policy and make the Department's policy consistent with the Department's practice by restoring wording present in the rule prior to April 1, 2008. This change will clarify that the representative payee fee paid by a client who is required by the Social Security Administration to receive payments through a representative payee is excluded for food stamps.

OAR 461-145-0600 about the treatment of work-related capital assets, equipment and inventory in the Department's public assistance, medical and Food Stamp programs is being amended to restate the Department's policy on the treatment of capital assets in the Refugee Assistance (REF) and Refugee Assistance Medical (REFM) programs.

OAR 461-155-0020 about prorated standards based on the adjusted number in the household in the Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM), and the Temporary Assistance to Needy Families (TANF) programs is being amended to align the Department's policy with federal policy by restating the Department's policy regarding the use of prorated standards to determine eligibility for OSIP, OSIPM, and TANF. This rule is also being amended to clarify current policy by stating that even when prorated standards do not apply in the OSIP and OSIPM programs, shelter-in-kind (see OAR 461-145-0470) may

still be applicable, and by stating additional requirements for determining the adjusted number in the household.

OAR 461-155-0250 about the income and payment standards in the Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM) programs is being amended to restate the Department's policy on the income standards that apply to clients in the Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM) programs. OAR 461-155-0250 is being amended to specify that the non-SSI OSIP and OSIPM standard in section (3) of the rule does not apply to clients in the Oregon Supplemental Income Program-Employed Persons with Disabilities (OSIP-EPD) and Oregon Supplemental Income Program Medical-Employed Persons with Disabilities (OSIPM-EPD) programs. The rule specifies that the income standard in section (6) of the rule applies to clients in the OSIP-EPD and OSIPM-EPD programs.

OAR 461-155-0360 about determining the cost-effectiveness of employer-sponsored health insurance plans in certain medical programs is being amended to change the Department's policy for the Refugee Assistance Medical (REFM) program. This rule is being amended so that the Department will not reimburse REFM clients for the cost of employer sponsored health insurance premiums.

OAR 461-155-0660 regarding accommodation allowance special need for individuals under the Oregon Supplemental Income Program Medical (OSIPM, aid to the elderly and people with disabilities) is being amended to clarify the eligibility criteria for the accommodation allowance special need. The intent of the rule has always been to provide funds to maintain an individual's home when the individual is or will be receiving in-home long term care services, and the rule is being amended to clarify this coverage.

OAR 461-160-0200 about the unearned income exclusion for child support and spousal support payments in the Medical Assistance to Families (MAF) and Substitute and Adoptive Care (SAC) programs is being amended to support program alignment. Effective October 1, 2008, the TANF program (as required by HB 2469) will implement a child support disregard by excluding up to \$50 per dependent child or minor parent per financial group per month, not to exceed \$200 per financial group per month. To support program policy alignment, the Department needs to amend this rule to match the TANF child support disregard program policy change. Additionally, this rule is being amended to clarify that the child support disregard is excluded income rather than a deduction and therefore not included in the countable income calculation. This rule is also being amended to include all child support exclusions affecting the MAF and SAC programs in the same rule.

OAR 461-160-0420 about how to calculate the shelter cost in the Food Stamp program is being amended to reflect the annual change in the Standard Utility Allowances. Each year Oregon surveys utility companies and the general public about increases in utility costs. The utility allowances are derived from these surveys and approved by the Food and Nutrition Service in the Food Stamp Program State Plan. There are four utility allowances. The full utility allowance (FUA) is for those households that have heating and cooling costs. The limited utility allowance (LUA) is for those households with more than one non-heating/cooling utility costs. The individual utility allowance (IUA) is for those households with a single non-heat cost. The single utility allowance (TUA) is for those households with only a telephone cost.

OAR 461-160-0550 is about income deduction for clients who do not receive SSI and who live in the community and have no children in the household group in the Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM), except Oregon Supplemental Income Program - Employed Persons with Disabilities (OSIP-EPD) and Oregon Supplemental Income Program Medical - Employed Persons with Disabilities (OSIPM-EPD). OAR 461-160-0551 is about income deduction for clients who do not receive SSI and who live in the community and do have children in the household group in the Oregon Supplemental

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tal Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM), except Oregon Supplemental Income Program - Employed Persons with Disabilities (OSIP-EPD) and Oregon Supplemental Income Program Medical - Employed Persons with Disabilities (OSIPM-EPD). These rules are being amended to make the Department's rules consistent with federal regulations. These rules are also being amended to clarify the Department's policy regarding determining eligibility for the OSIP and OSIPM programs, including how to do income deductions including deeming. These rules are being amended to remove the General Assistance (GA), General Assistance Medical (GAM), and Qualified Medicare Beneficiaries, (QMB) from these rules and to clarify deductions and deeming for adults and children in the OSIP and OSIPM programs. These rules are also being amended to clarify that an applying adult must be income eligible as an individual before any allocating or deeming can take place.

OAR 461-160-0552 about income deductions in the Qualified Medicare Beneficiaries program (QMB) is being adopted to state the Department's policy regarding income deductions in the QMB program. This rule is being adopted because the Department is amending OAR 461-160-0550 to remove the provisions about QMB from that rule, which is about income deductions for certain clients in the Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM) programs.

OAR 461-160-0610 regarding which individuals must pay a liability in order to receive long term care services under the Oregon Supplemental Income Program Medical (OSIPM, aid to the elderly and people with disabilities) is being amended to delete the cross-reference to OAR 461-135-0811 because that rule has been repealed.

OAR 461-165-0060 about minimum benefit amounts is being renamed and is being amended to restate how the minimum benefit amount for the Food Stamp program is determined.

OAR 461-170-0020 about changes that must be reported in the Food Stamp, Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), Refugee Assistance (REF), Refugee Assistance Medical (REFM), and Medical Coverage for Children in Substitute or Adoptive Care (SAC) programs is being amended to comply with the Food, Conservation, and Energy Act of 2008. This rule is being amended to restate the reporting requirements for clients in the Food Stamp program who are assigned to the simplified reporting system. This rule is being amended to remove the requirement to report income over 185 percent of the federal poverty level for households in which all members are elderly or have disabilities and there is no earned income. This rule is also being amended to restate the reporting requirements for clients in the REFM program.

OAR 461-170-0100 about the criteria for using the monthly reporting system is being amended to change the Department's policy for using the monthly reporting system for the Refugee Assistance Medical (REFM) program. This rule is being amended to remove REFM from the list of programs that can be assigned to the monthly reporting system.

OAR 461-170-0101 is about the simplified reporting system (SRS) used in the Food Stamp program. This rule is being amended to restate the Department's policy on the length of time that households containing migrant or seasonal farm workers or homeless individuals may be certified for food stamps in the simplified reporting system. This amendment allows such households to be certified for 12 months. Prior to this change these groups were limited to six-month certifications.

OAR 461-175-0340 about the type of decision notice that is required when an individual makes a voluntary decision to withdraw, reduce, or end benefits is being amended to restate the Department policy about what type of decision notice is required when an individual makes a voluntary decision to withdraw, reduce, or end benefits in programs other than the Food Stamp program. This rule is also being amended to replace old terminology with new terminol-

ogy, add cross-references to other rules and laws, and follow standard formatting.

OAR 461-190-0195 about the Degree Completion Initiative (DCI) component of the Job Opportunity and Basic Skills Program (JOBS) is being repealed because this rule is no longer necessary as DCI is a pilot program and will be replaced by Parents as Scholars (PAS) component of the JOBS program.

OAR 461-190-0199 about the Parents as Scholars (PAS) component of the Job Opportunity and Basic Skills Program (JOBS) is being adopted to implement 2003 Or. Laws ch. 212 and 2007 Or. Laws ch. 861 by establishing eligibility criteria for the PAS component of the JOBS program. PAS will replace the Degree Completion Initiative (DCI) component of the JOBS Program on October 1, 2008. PAS will allow the Department to support clients eligible for Temporary Assistance for Needy Families (TANF) who are or will be undergraduates in beginning or continuing a two- or four-year degree program at an approved school. This rule is also being amended to make permanent a temporary rule adopted September 5, 2008 that allowed a rule to be in place while the Department informed the public and accepted applications.

OAR 461-190-0211 about the standards for support service payments is being amended to restate the Department's policy on paying for books and supplies for educational needs.

OAR 461-190-0231 about the re-engagement process in the Job Opportunity and Basic Skills (JOBS), Pre-Temporary Assistance for Needy Families (Pre-TANF), Refugee Assistance (REF), State Family Pre-SSI/SSDI Program (SFPSS), and Temporary Assistance for Domestic Violence Survivors (TA-DVS) programs is being amended to state the Department's policy regarding the consequences of unsuccessful reengagement for a participant in the Parents as Scholars (PAS) component of the JOBS program.

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461-001-0000

Definitions for Chapter 461

Defined terms are often italicized throughout this chapter of rules. If a defined term is accompanied by a cross-reference to a rule defining the term, subsequent usages of that term in the same rule refer to the same definition cross-referenced earlier in the rule. In this chapter of rules, unless the context indicates otherwise:

(1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDS), or any other agency formerly part of the Department of Human Services shall be taken to mean the Department of Human Services (DHS), except that the rule in which reference occurs only regulates programs covered by Chapter 461 of the Oregon Administrative Rules.

(2) A reference to an Administrator of an agency mentioned in section (1) means the Director of DHS.

(3) "Address Confidentiality Program" (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address and mail forwarding service for ACP participants who are victims of domestic violence, sexual assault, or stalking.

(4) "Adjusted income" means the amount determined by subtracting income deductions from countable income (see OAR 461-140-0010). Specific rules on the deductions are found in division 461-160.

(5) "Adoption assistance" means financial assistance provided to families adopting children with special needs. Adoption assistance may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.

(6) "Assets" mean income and resources.

(7) "Basic decision notice" means a decision notice mailed no later than the date of action given in the notice.

(8) "Budgeting" means the process of calculating the benefit level.

(9) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine eligibility and benefit level for the payment month.

(10) "Cafeteria plan" means a written benefit plan offered by an employer in which:

(a) All participants are employees; and

(b) Participants can choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Services does not consider

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part of an employee's gross income. Qualified benefits include, but are not limited to:

(A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);

(B) Group term life insurance plans (up to \$50,000);

(C) Dependent care assistance plans; and

(D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).

(11) "Capital asset" means property that contributes toward earning self-employment income, including self-employment income from a microenterprise, either directly or indirectly. A capital asset generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.

(12) "Caretaker" means an individual who is responsible for the care, control, and supervision of a child. The status of caretaker ends once the individual no longer exercises care, control, and supervision of the child for 30 days.

(13) "Caretaker relative" means a caretaker who meets the requirements of one of the following subsections:

(a) Is one of the following relatives of the dependent child:

(A) Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces, and individuals of preceding generations as denoted by prefixes of grand, great, or great-great.

(B) Stepfather, stepmother, stepbrother, and stepsister.

(C) An individual who legally adopts the child and any individual related to the individual adopting the child, either naturally or through adoption.

(b) Is or was a spouse of an individual listed in subsection (a) of this section.

(c) Met the definition of caretaker relative under subsection (a) or (b) of this section before the child was adopted (notwithstanding the child's subsequent adoption).

(14) "Certification period" means the period for which a client is certified eligible for a program.

(15) "Child" includes natural, step, and adoptive children. The term child does not include an unborn.

(a) In the ERDC program, a child need not have a biological or legal relationship to the caretaker but must be in the care and custody of the caretaker, must meet the citizenship or alien status requirements of OAR 461-120-0110, and must be:

(A) Under the age of 18; or

(B) Under the age of 19 and in secondary school or vocational training at least half time.

(b) In the GA, GAM, and OSIP programs, a child is an individual under the age of 18.

(c) In the OHP program, child means an individual, including a minor parent, under the age of 19.

(d) In the OSIPM and QMB programs, child means an unmarried individual living with a parent who is:

(A) Under the age of 18; or

(B) Under the age of 22 and attending full time secondary, post secondary or vocational-technical training designed to prepare the individual for employment.

(16) "Community based care" is any of the following:

(a) Adult foster care — Room and board and 24 hour care and services for the elderly or for disabled people 18 years of age or older. The care is contracted to be provided in a home for five or fewer clients.

(b) Assisted living facility — A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.

(c) In-home Services — People living in their home receiving services determined necessary by the Department.

(d) Residential care facility — A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.

(e) Specialized living facility — Identifiable services designed to meet the needs of individuals in specific target groups which exist as the result of a problem, condition or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.

(f) Independent choices — In-home Services recipients in demonstration sites who receive a cash benefit to coordinate in-home services under a section 1115 (42 U.S.C. 1315) demonstration waiver.

(17) "Continuing benefit decision notice" means a decision notice that informs the client of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.

(18) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine eligibility.

(19) "Custodial parents" mean parents who have physical custody of a child. Custodial parents may be receiving benefits as dependent children or as caretaker relatives for their own children.

(20) "Decision notice" means a written notice of a decision by the Department regarding an individual's eligibility for benefits in a program.

(21) "Department" means the Department of Human Services (DHS).

(22) "Dependent child", in the EXT, MAA, MAF, REF, REFM, and TANF programs, means the following:

(a) An individual who is not a caretaker relative of a child in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or

(b) A minor parent whose parents have chosen to apply for benefits for the minor parent. This does not apply to a minor parent who is married and living with his or her spouse.

(23) "Disability" means:

(a) In the FS program, see OAR 461-001-0015.

(b) In the REF, SFPSS, TA-DVS, and TANF programs, for purposes other than determining eligibility:

(A) An individual with a physical or mental impairment that substantially limits the individual's ability to meet the requirements of the program; or

(B) An individual with a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or who is regarded as having such an impairment as defined by the Americans with Disabilities Act (42 USC 12102; 28 CFR 35.104).

(24) "Domestic violence" means the occurrence of one or more of the following acts between family members, intimate partners, or household members:

(a) Attempting to cause or intentionally, knowingly or recklessly causing physical injury or emotional, mental or verbal abuse.

(b) Intentionally, knowingly or recklessly placing another in fear of imminent serious physical injury.

(c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.

(d) Using coercive or controlling behavior.

(25) "Domestic violence shelters" are public or private nonprofit residential facilities providing services to victims of domestic violence. If the facility serves other people, a portion must be used solely for victims of domestic violence.

(26) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.

(27) "Equity value" means fair market value minus encumbrances.

(28) "Fair market value" means the amount an item is worth on the open market.

(29) "Family stability" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF program means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free environment, stable relationships, and a supportive, flexible, and nurturing home environment.

(30) "Family stability activity" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF program means an action or set of actions taken by the client, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain family stability.

(31) "Financial institution" means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.

(32) "HPN" means a health plan new/noncategorical client eligible under OHP-OPU.

(33) "Income-producing property" means any real or personal property that generates income for the financial group. Examples of income-producing property are:

(a) Livestock, poultry, and other animals.

(b) Farmland, rental homes (including a room or other space in the home or on the property of a member of the financial group), vacation homes, condominiums.

(34) "Initial month" of eligibility means any of the following:

(a) In all programs, the first month a benefit group (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.

(b) In all programs except the FS program, the first month a benefit group is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.

(c) In the FS program:

(A) The first month for which the benefit group is certified following any period during which they were not certified to participate, except for migrant and seasonal farm workers (see OAR 461-001-0015).

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(B) For migrant and seasonal farmworkers, the first month for which the benefit group is certified following any period of one month or more during which they were not certified to participate.

(d) In the OHP program, the first month of a redetermination or recertification period.

(e) For clients in the GA, GAM, OSIP, and OSIPM programs who live in a nonstandard living arrangement, for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the client would have been eligible had it not been for the disqualifying transfer of assets.

(35) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).

(36) "Legally married" means a marriage uniting a man and a woman according to the provisions of either:

(a) The statutes of the state where the marriage occurred;

(b) The common law of the state in which the man and woman previously resided while meeting the requirements for common law marriage in that state; or

(c) The laws of a country in which the man and woman previously resided while meeting the requirements for legal or cultural marriage in that country.

(37) "Life estate" means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a life estate enables the owner of the life estate to possess, use and obtain profits from property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A life estate is created when an individual owns property and then transfers their ownership to another while retaining, for the rest of their life, certain rights to that property. In addition, a life estate is established when a member of the financial group (see OAR 461-110-0530) purchases a life estate interest in the home of another individual.

(38) "Lodger" means a member of the household group (see OAR 461-110-0210) who:

(a) Is not a member of the filing group; and

(b) Pays the filing group for room and board.

(39) "Long-term care" means the system through which the Department provides a broad range of social and health services to eligible adults who are aged, blind, or have disabilities for extended periods of time. This includes nursing homes and state hospitals (Eastern Oregon and Oregon State Hospitals).

(40) "Lump-sum income" means income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. Lump-sum income includes:

(a) Retroactive benefits covering more than one month, whether received in a single payment or several payments.

(b) Income from inheritance, gifts, winnings and personal injury claims.

(41) "Marriage" means the union of a man and a woman who are legally married.

(42) "Microenterprise" means a sole proprietorship, partnership, or family business with fewer than five employees and capital needs no greater than \$35,000.

(43) "Minor parent", in the ERDC, EXT, MAA, MAF, REF, REFM, and TANF programs, means a parent under the age of 18.

(44) "Nonstandard living arrangement" is defined as follows:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs, a client is considered to be in a nonstandard living arrangement when the client is applying for or receiving services in any of the following locations:

(A) A nursing facility.

(B) An intermediate care facility for the mentally retarded (ICF/MR).

(C) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65.

(D) A community based care (see section (16) of this rule) setting.

(b) In all programs except GA, GAM, OSIP, OSIPM, and QMB, a nonstandard living arrangement means each of the following locations:

(A) Foster care.

(B) Residential Care Facilities.

(C) Drug or Alcohol Residential Treatment Facilities.

(D) Homeless or Domestic Violence Shelters.

(E) Lodging house if paying for room and board.

(F) Correctional facilities.

(G) Medical institutions.

(45) "Ongoing month" means one of the following:

(a) For all programs except FS and OHP, any month following the initial month of eligibility, if there is no break in the program benefit of one or more calendar months.

(b) For the FS and OHP programs, any month in the certification period following the initial month of eligibility.

(46) "Parent" means the biological or legal (step or adoptive) mother or father of an individual or unborn child.

(a) If the mother lives with a male and either she or the male claims that he is the father of the child or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

(b) A stepparent relationship exists if:

(A) The individual is legally married to the child's biological or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce or death.

(c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a parent if both of the following are true:

(A) The child lives with the biological parent; and

(B) The legal parent (the adoptive parent) has given up care, control and supervision of the child.

(47) "Payment month" means, for all programs except EA, the calendar month for which benefits are issued.

(48) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.

(49) "Periodic income" means income received on a regular basis less often than monthly.

(50) "Primary person" for all programs except FS, means the filing group member who is responsible for providing information necessary to determine eligibility and calculate benefits. The primary person for individual programs is as follows:

(a) For EXT, MAA, MAF, and TANF, the parent or caretaker relative.

(b) For ERDC, the caretaker.

(c) For FS, see OAR 461-001-0015.

(d) For GA, GAM, OSIP, OSIPM, and QMB, the client or their spouse.

(e) For OHP, REF, and REFM, the applicant, caretaker, caretaker relative or parent.

(51) "Qualified Partnership Policy" means a long term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:

(a) Issued while the client was a resident in Oregon on January 1, 2008 or later; or

(b) Issued in another state while the client was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.

(52) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as real property.

(53) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.

(54) "Safe homes" mean private homes that provide a few nights lodging to victims of domestic violence. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.

(55) "Shelter costs" mean, in all programs except the Food Stamp program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the Food Stamp program, see OAR 461-160-0420.

(56) "Shelter-in-kind" means an agency or person outside the financial group (see OAR 461-110-0530) provides the shelter of the financial group, or makes a payment to a third party for some or all of the shelter costs of the financial group. Shelter-in-kind does not include temporary shelter provided by a domestic violence shelter, homeless shelter, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park or bus station.

(57) "Sibling" means the brother or sister of an individual. "Blood-related" means they share at least one biological or adoptive parent. "Step" means they are not related by blood, but are related by the marriage of their parents.

(58) "Spousal support" means income paid (voluntarily, per court order or per administrative order) by a separated or divorced spouse to a member of the financial group (see OAR 461-110-0530).

(59) "Spouse" means an individual who is legally married to another individual. In the ERDC and FS programs, spouse includes an individual who is not legally married to another, but is presenting themselves to the community as the husband or wife by:

(a) Representing themselves as husband and wife to relatives, friends, neighbors or tradespeople; and

(b) Sharing living expenses or household duties.

(60) "Stable income" means income that is the same amount each time it is received.

(61) "Standard living arrangement" means a location that does not qualify as a nonstandard living arrangement.

(62) "Teen parent" means, for TANF and JOBS, a parent under the age of 20 who has not completed a high school diploma or GED.

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(63) "Timely continuing benefit decision notice" means a decision notice that informs the client of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.

(64) "Trust funds" mean money, securities, or similar property held by a person or institution for the benefit of another person.

(65) "USDA meal reimbursements" mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.

(66) "Variable income" means earned or unearned income that is not always received in the same amount each month.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.006, 412.014, 412.049, 414.042
Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.006, 412.014, 412.049, 414.042
Hist.: AFS 28-1978, f. & cert. ef. 7-13-78; AFS 54-1984, f. 12-28-84, cert. ef. 1-1-85; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 15-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-001-0035

Definitions; OSIP-EPD and OSIPM-EPD

The following definitions apply to the rules of the OSIP-EPD and OSIPM-EPD programs in Chapter 461:

(1) "Approved account" refers to a segregated account in a financial institution, the purpose of which is to save to use for future disability-related expenses that would increase the individual's independence and employment potential. Also included in this definition are accounts regulated by the Internal Revenue Code and used for retirement planning, such as IRAs, 401(k)s, TSAs, and KEOGHs.

(2) "Blind work expenses" (BWE) refer to those costs defined by SSA that can be used as reductions to earned income as defined in 20 CFR 416.1112(c)(8).

(3) "Disabled" or "has a disability" refers to having a physical or mental impairment, or a combination of these impairments, that meets the definition of disability used by SSA when determining eligibility for Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) as defined in 20 CFR Part 404.

(4) "Disability determination" refers to the process used to establish whether the individual's disability meets the definitions used by SSA in determining eligibility for SSI and SSDI.

(5) "Employment" refers to an ongoing work activity for which a client provides the Department with one of the following:

(a) Tax payments or filing for Federal Insurance Contribution Act (FICA).

(b) Tax payments or filing for Self-Employment Contributions Act (SECA).

(c) Clear and convincing evidence of self-employment.

(6) "Employment and independence expense" (EIE) refers to the cost of any expense that can be reasonably expected to enhance the independence and employment potential of the individual.

(7) "Impairment related work expenses" (IRWE) refer to those costs defined by SSA that can be used as reductions to earned income. To be allowed, the item or service must be related to the impairment and necessary to enable the individual to perform the individual's job as defined in 20 CFR 416.976.

(8) "Participant fee" refers to the monthly payment that clients in the OSIP-EPD and OSIPM-EPD programs must make in order to be eligible for the OSIP-EPD and OSIPM-EPD programs (see OAR 461-160-0800).

(9) "Past relevant work" (PRW) refers to work done within the past 15 years, that was substantial gainful activity, and that lasted long enough for the worker to learn how to do it.

(10) "Substantial gainful activity" (SGA) refers to the term used by SSA to describe a level of work activity and earnings. In the OSIP-EPD or OSIPM-EPD programs, an individual is engaging in SGA if the earnings of the individual are at or above the OSIP-EPD or OSIPM-EPD income standard.

Stat. Auth.: ORS 411.060, 411.070, 414.042
Stats. Implemented: ORS 411.060, 411.070, 414.042
Hist.: AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 10-2003(Temp) f. & cert. ef. 5-1-03 thru 9-30-03; SSP 17-2003, f. & cert. ef. 7-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; Renumbered from 461-110-0115, SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-101-0010

Program Acronyms and Overview

(1) Acronyms are frequently used when referring to a program. There is an acronym for each umbrella program (for instance, OSIP) and acronyms for each subprogram (for instance, OSIP-AB, OSIP-AD, and OSIP-OAA).

(2) When no program acronym appears in a rule in Chapter 461 of these rules, the rule with no program acronym applies to all programs listed in this rule. If a rule does not apply to all programs, the rule uses program acronyms to identify the programs to which the rule applies.

(3) Wherever an umbrella acronym appears, that means the rule covers all the subprograms under that code (for instance, OSIP means OSIP-AB, OSIP-AD, and OSIP-OAA).

(4) ADC; Aid to Dependent Children. Financial aid to low-income families when children are deprived of parental support because of continued absence, death, incapacity, or unemployment. When used alone, ADC refers to all ADC programs. Use of the acronym, ADC, which stands for Aid to Dependent Children, and use of the phrase, Aid to Dependent Children, refer to the state's Temporary Assistance for Needy Families Program, and its acronym, TANF. The following codes are used for ADC subprograms:

(a) ADC-BAS; Aid to Dependent Children - Basic (includes eligibility based on continued absence, death, incapacity, or unemployment). ADC with deprivation based on unemployment is also denoted by ADC-BAS/UN.

(b) EA; Aid to Dependent Children - Emergency Assistance. Emergency cash to families without the resources to meet emergent needs.

(5) ADCM; Aid to Dependent Children Medical. Medical aid to low-income families when children are deprived of parental support, as for ADC. Use of the acronym ADCM, which stands for Aid to Dependent Children Medical, and use of the phrase Aid to Dependent Children Medical refer to EXT, MAA, MAF, and SAC programs. When used alone, ADCM refers to all ADC-related medical programs. The following codes are used for ADCM subprograms:

(a) ADCM-BAS; Aid to Dependent Children Medical - Basic.

(b) ADCM-EXT; Aid to Dependent Children Medical - Extended. ADCM-EXT provides extended medical benefits to families after their ADC benefits end.

(c) ADCM-SAC; Aid to Dependent Children Medical - Substitute or Adoptive Care. ADCM-SAC gives medical coverage to children in substitute or adoptive care.

(6) The Assessment Program (see the Pre-TANF program in this rule).

(7) BCCM; Breast and Cervical Cancer Medical program.

(8) CAWEM; Citizen/Alien-Waived Emergent Medical. Medicaid coverage of emergent medical needs for clients who are not eligible for other medical programs solely because they do not meet citizenship and alien status requirements.

(9) DFSP; Disaster Food Stamp Program. Following a presidential declaration of a major disaster in Oregon, DFSP provides emergency food stamps to victims. OAR 461-135-0491 to 461-135-0497 cover DFSP eligibility and benefits.

(10) ERDC or ERDC-BAS; Employment Related Day Care-Basic. Helps low-income working families pay the cost of child care.

(11) EXT; Extended Medical Assistance. The Extended Medical Assistance program provides medical assistance for a period of time after a family loses its eligibility for the MAA, MAF, or Pre-TANF program due to an increase in their child support or earned income.

(12) FS; Food Stamps. Helps low-income households maintain proper nutrition by giving them the means to purchase food. Any reference to Food Stamps or FS also includes the Supplemental Nutrition Assistance Program or SNAP.

(13) GA; General Assistance. Cash assistance to low-income individuals with disabilities who do not have dependent children.

(14) GAM; General Assistance Medical. Medical assistance to clients who are eligible for the GA program but have not been found eligible for OSIPM benefits.

(15) HSP; Housing Stabilization Program. A program that helps low-income families obtain stable housing. The program is operated through the Housing and Community Services Department through community-based, service-provider agencies. The Department's rules for the program (OAR 461-135-1305 to 461-135-1335) were repealed July 1, 2001.

(16) JOBS; Job Opportunity and Basic Skills. An employment program for REF, REFM, and TANF clients. JOBS helps these clients attain self-sufficiency through training and employment. The program is part of Welfare Reform.

(17) JOBS Plus. Provides subsidized jobs rather than FS or TANF benefits. For TANF clients, JOBS Plus is a component of the JOBS Program; for FS clients and noncustodial parents of children receiving TANF, it is a separate employment program. Eligibility for TANF clients, FS clients, and noncustodial parents of children receiving TANF is determined by the Department. Eligibility for UI recipients is determined by the Oregon State Employment Department. When used alone, JOBS Plus includes only clients whose JOBS Plus program participation is through the Department of Human Services. JOBS Plus administered through the Oregon State Employment Department is known in chapter 461 of the

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Oregon Administrative Rules as Oregon Employment Department UI JOBS Plus. The following acronyms are used for specific categories:

- (a) ADC-PLS; Clients eligible for JOBS Plus based on TANF.
- (b) FS-PLS; Clients eligible for JOBS Plus based on FS.
- (c) NCP-PLS; Noncustodial parents of children receiving TANF.

(18) LIS; Low-Income Subsidy. The Low-Income Subsidy program is a federal assistance program for Medicare clients who are eligible for extra help meeting their Medicare Part D prescription drug costs.

(19) MAA; Medical Assistance Assumed. The Medical Assistance Assumed program provides medical assistance to people who are eligible for the Pre-TANF program or ongoing TANF benefits.

(20) MAF; Medical Assistance to Families. The Medical Assistance to Families program provides medical assistance to people who are ineligible for MAA but are eligible for Medicaid using ADC program standards and methodologies that were in effect as of July 16, 1996.

(21) OFSET. The Oregon Food Stamp Employment Transition Program, which helps FS recipients find employment. This program is mandatory for some FS recipients.

(22) OHP; Oregon Health Plan. The Oregon Health Plan Program provides medical assistance to many low-income individuals and families. The program includes five categories of people who may qualify for benefits. The acronyms for these categories are:

(a) OHP-OPU; Adults. OHP coverage for adults who qualify under the 100 percent income standard. A person eligible under OHP-OPU is referred to as a health plan new/noncategorical (HPN) client.

(b) OHP-OPC; Children. OHP coverage for children who qualify under the 100 percent income standard.

(c) OHP-OP6; Children Under 6. OHP coverage for children under age 6 who qualify under the 133 percent income standard.

(d) OHP-OPP; Pregnant Females and their newborn children. OHP coverage for pregnant females who qualify under the 185 percent income standard and their newborn children.

(e) OHP-CHP; Persons Under 19. OHP coverage for persons under age 19 who qualify under the 185 percent income standard for medical assistance authorized by the Children's Health Insurance Program (CHIP) provision of the 1997 Balanced Budget Act.

(23) OSIP; Oregon Supplemental Income Program. Cash supplements and special need payments to persons who are blind, disabled, or 65 years of age or older. When used alone, OSIP refers to all OSIP programs. The following acronyms are used for OSIP subprograms:

(a) OSIP-AB; Oregon Supplemental Income Program — Aid to the Blind.

(b) OSIP-AD; Oregon Supplemental Income Program — Aid to the Disabled.

(c) OSIP-EPD; Oregon Supplemental Income Program — Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.

(d) OSIP-OAA; Oregon Supplemental Income Program — Old Age Assistance.

(24) OSIPM; Oregon Supplemental Income Program Medical. Medical coverage for elderly and disabled individuals. When used alone, OSIPM refers to all OSIP-related medical programs. The following codes are used for OSIPM subprograms:

(a) OSIPM-AB; Oregon Supplemental Income Program Medical — Aid to the Blind.

(b) OSIPM-AD; Oregon Supplemental Income Program Medical — Aid to the Disabled.

(c) OSIPM-EPD; Oregon Supplemental Income Program Medical — Employed Persons with Disabilities program. This program provides Medicaid coverage for employed persons with disabilities with adjusted income less than 250 percent of the Federal Poverty Level.

(d) OSIPM-OAA; Oregon Supplemental Income Program Medical — Old Age Assistance.

(e) OSIPM-IC; Oregon Supplemental Income Program Medical — Independent Choices

(25) The Post-TANF program provides a monthly transitional payment to employed clients who are no longer eligible for the Pre-TANF or TANF programs due to earnings, and meet the other eligibility requirements.

(26) The Pre-TANF program is an up-front assessment and resource-search program for TANF applicant families. The intent of the program is to assess the individual's employment potential; determine any barriers to employment or family stability; develop an individualized case plan that promotes family stability and financial independence; help individuals find employment or other alternatives; and provide basic living expenses immediately to families in need.

(27) QMB; Qualified Medicare Beneficiaries. Additional medical coverage for Medicare recipients. When used alone, QMB refers to all QMB programs. The following codes are used for QMB subprograms:

(a) QMB-BAS; Qualified Medicare Beneficiaries — Basic. The basic QMB program.

(b) QMB-DW; Qualified Medicare Beneficiaries — Disabled Worker. Payment of the Medicare Part A premium for people under age 65 who have lost eligibility for Social Security disability benefits because they have become substantially gainfully employed.

(c) QMB-SMB; Qualified Medicare Beneficiaries — Special Medicare Beneficiary. Payment of all or a portion of the Medicare Part B premium only. There are no medical benefits available through QMB-SMB.

(28) REF; Refugee Assistance. Cash assistance to low-income refugee singles or married couples without children.

(29) REFM or REFM-BAS; Refugee Assistance Medical — Basic. Medical coverage for low-income refugees.

(30) The Repatriate Program helps Americans resettle in the United States if they have left a foreign land because of an emergency situation.

(31) SAC; Medical Coverage for Children in Substitute or Adoptive Care.

(32) Senior Prescription Drug Assistance Program; provides that people 65 years of age or older can purchase prescription drugs at the Medicaid price.

(33) SFDNP; Senior Farm Direct Nutrition Program. Food vouchers for low income seniors. Funded by a grant from the United States Department of Agriculture.

(34) SFPSS; State Family Pre-SSI/SSDI Program. A voluntary program providing cash assistance and case management services to families when at least one TANF eligible adult in the household has an impairment (see OAR 461-125-0260) and is or will be applying for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).

(35) TA-DVS; Temporary Assistance for Domestic Violence Survivors. Addresses the needs of clients threatened by domestic violence.

(36) TANF; Temporary Assistance for Needy Families. Cash assistance for families when children in those families are deprived of parental support because of continued absence, death, incapacity, or unemployment. Cash assistance used to be known as ADC.

Stat. Auth.: ORS 411.060, 411.816, 412.014, 412.049, 414.042, 414.342

Stats. Implemented: ORS 411.060, 411.816, 412.014, 412.049, 414.042, 414.342

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 17-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 17-2001(Temp), f. 3-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 8-2006, f. & cert. ef. 6-1-06; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-110-0370

Filing Group; FS

In the Food Stamp program:

(1) Except as provided in this rule, the filing group is composed of members of a household group (see OAR 461-110-0210) who customarily purchase and prepare meals together.

(2) Except as provided in sections (3), (6), and (7) and subsection (5)(b) of this rule, the following individuals, if they are in the same household group, must be in the same filing group, even if they do not customarily purchase and prepare meals together:

(a) Each spouse (see OAR 461-001-0000).

(b) A *parent* (see OAR 461-001-0000) and his or her child under age 22 who is living with them.

(c) A *household group* member and child under age 18 who lives with and is under parental control of that household group member. For the purposes of this subsection, parental control means the adult is responsible for the care, control, and supervision of the child or the child is financially dependent on the adult.

(3) Notwithstanding sections (1) and (2) of this rule, an individual is excluded from the filing group if, during the month the group applied for food stamps, the individual received food stamp benefits or SSI benefits through the state of California that included food stamp benefits. This exclusion applies only in the initial month and, if necessary to meet notice requirements, in the month following the initial month. This exclusion does not apply to an individual who was the head of household in the prior household.

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(4) The following individuals may form a separate filing group if they purchase and prepare food with other members of the household group, unless they are required by section (2) of this rule to be in the same filing group:

(a) A *paid live-in attendant* and the attendant's minor children may choose not to be in the filing group with the individuals for whom they are providing services.

(b) An elderly individual (see OAR 461-001-0015) may be considered a separate filing group from the others with whom the elderly individual purchases and prepares meals, if:

(A) The *elderly individual* is unable to purchase and prepare food because of a permanent and severe disabling condition; and

(B) The combined income of the other members of the household group does not exceed the following limit: [Table not included. See ED. NOTE.]

(5) The following individuals who are paying to have meals provided are not eligible to participate in the Food Stamp program independently of the care or service provider. However, they may be included in the care or service provider's filing group if the provider chooses to apply for benefits for them.

(a) An individual in foster care along with his or her spouse and each child under age 22 living with them.

(b) A member of the household group who pays the filing group a reasonable amount for room and board (lodger). A reasonable amount is:

(A) An amount that equals or exceeds the Thrifty Food Plan for the person and anyone in that person's filing group (see OAR 461-155-0190(2)), if more than two meals a day are provided; or

(B) An amount that equals or exceeds two-thirds of the Thrifty Food Plan for the person and anyone in that person's filing group, if two or fewer meals a day are provided.

(6) Notwithstanding section (2) of this rule, the following household group members may form a separate filing group from other members of the household group:

(a) A resident of an alcohol or drug treatment and rehabilitation program certified by the Department for which an employee of the facility is the authorized representative (see OAR 461-135-0550).

(b) A resident in group living (see OAR 461-001-0015).

(c) A resident of a homeless or domestic violence shelter (see OAR 461-135-0510).

(d) A member of the household group who is not paying the filing group a reasonable amount for room and board (lodger), as defined in subsection (5)(b) of this rule.

(7) The following household group members are excluded from the filing group:

(a) A resident of a commercial boarding house.

(b) An ineligible student, as defined in OAR 461-135-0570.

(8) A household member may be in two filing groups if the member:

(a) Is a resident of a domestic violence shelter (see OAR 461-001-0000) or safe home (see OAR 461-001-0000); and

(b) Recently left the household containing the individual who abused them.

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

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816, 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2001, F. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08

461-115-0030

Date of Request

(1) For all programs covered by Chapter 461 of the Oregon Administrative Rules, the client or someone authorized to act on behalf of the client must contact the Department or use another appropriate method to request benefits (see OAR 461-115-0150). The request may be oral or in writing. The request starts the application process.

(2) The date of request is one of the following:

(a) In the EA, ERDC-BAS, GA, OSIP, REF, and TANF programs and for support service payments in the JOBS program authorized by OAR 461-190-0211, the date of request is the day the request for benefits is received by the Department.

(b) In the FS program, this section does not apply. See OAR 461-115-0040.

(c) In the GAM, MAA, MAF, OHP, OSIPM, REFM, and SAC programs, the date of request is determined as follows:

(A) For a new applicant,

(i) The day the request for medical benefits is received by a Department representative, except as described in subparagraph (ii) of this paragraph.

(ii) If the request for medical benefits is received by a Department representative no later than the next business day after medical services are received, the date of request is the day these medical services were received.

(B) For a current recipient, the date of request is one of the following:

(i) The date the client reports a change requiring a redetermination of eligibility.

(ii) The date the Department initiates a review, except that the automatic mailing of an application does not constitute a Department-initiated review.

(iii) The date the client establishes a date of request by contacting the Department orally or in writing or by submitting an application.

(C) For an *OHP Standard Reservation List Applicant* (see OAR 461-135-1125), the date of request is the date the Department mails the OHP 7210R Application (see OAR 461-135-1125).

(d) In the SFPSS program:

(A) Except as provided in paragraph (B) of this subsection, the date of request is the day the client signs the program's Interim Assistance Agreement.

(B) The date of request for support service payments is the day the request for benefits is received by the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.014, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.014, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 12-2008(Temp), f. & cert. ef. 4-17-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-120-0130

Declaration of Citizenship or Alien Status

An individual required to meet the citizenship and alien status requirements of OAR 461-120-0110 must report the individual's citizenship and alien status and sign a statement attesting to the status under penalty of perjury. The following persons must sign the statement:

(1) For all programs except the Food Stamp program, each adult in the filing group must sign the statement; the primary person signs for the children in the filing group.

(2) For the Food Stamp program, an adult filing group member or an authorized representative must sign the statement for everyone in the filing group.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 22-1990(Temp), f. 9-28-90, cert. ef. 10-1-90; AFS 30-1991, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 23-2008, f. & cert. ef. 10-1-08

461-120-0510

Age Requirements for Clients to Receive Benefits

(1) If the year of a person's birth is known but the month is unknown, the month of birth is presumed to be July. If the date of birth is unknown, the date of birth is presumed to be the first of the month.

(2) To be eligible for the BCCM program, a woman must be under 65 years of age.

(3) To be eligible for the EXT, MAA, MAF, or TANF programs:

(a) A child (see OAR 461-001-0000) must be:

(A) Under 18 years of age; or

(B) Under 19 years of age and regularly attending school full time, as determined by the school.

(b) A caretaker relative may be any age.

(4) To be eligible for payment of child care costs for the ERDC or TANF program, a child must be:

(a) Under 12 years of age for the ERDC program or under 13 years of age for the TANF program; or

(b) Under 18 years of age; and

(A) Physically or mentally incapable of selfcare;

(B) Under court supervision;

(C) Receiving foster care;

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(D) Eligible for the special need rate for child care in OAR 461-155-0150; or

(E) Subject to circumstances that significantly compromise the child's safety or the caretaker's ability to work or participate in an assigned activity if child care is not available.

(5) To be eligible for the FS, OSIP-AB, OSIPM-AB, QMB-BAS, QMB-SMB, or REFM programs, a client may be any age.

(6) To be eligible for the GA and GAM programs, a client must be:

(a) Eighteen years of age or older and less than 65 years of age; or

(b) Sixty-five years of age or older and must be a non-citizen who meets the requirements of OAR 461-120-0125.

(7) To be eligible for the OHP program, a client must meet the age requirements in OAR 461-135-1100.

(8) To be eligible for the OSIP-AD (except OSIP-EPD) program, a client must be 18 years of age or older and under 65 years of age.

(9) To be eligible for the OSIP-EPD and OSIPM-EPD programs, the client must be 18 years of age or older or be legally emancipated.

(10) To be eligible for the OSIP-OAA or OSIPM-OAA programs, a client must be 65 years of age or older.

(11) To be eligible for the OSIPM-AD (except OSIPM-EPD) or QMB-DW programs, a client must be under 65 years of age.

(12) To be eligible for the REF program, a client must be:

(a) 18 years of age or older;

(b) A legally emancipated minor; or

(c) Part of a TANF filing group that is ineligible for TANF.

(13) To be eligible for the SAC program, the child must be under 21 years of age.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 18-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 12-31-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-130-0310

Participation Classifications: Exempt, Mandatory, and Volunteer

(1) To administer the employment programs of the Food Stamp, Pre-TANF, REF, and TANF programs, the Department assigns clients to one or more participation classifications — *exempt*, *mandatory*, and *volunteer*.

(2) In the Food Stamp program:

(a) The following clients are exempt:

(A) A client with weekly countable income (see OAR 461-001-0000) from employment or self-employment (see OAR 461-145-0930) at least equal to the federal minimum wage multiplied by 30 hours. This includes migrant and seasonal farm workers (see OAR 461-001-0015) who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days.

(B) A client with a physical or mental condition that prevents performance of any work.

(C) A client who is responsible for the care of a dependent child (see OAR 461-001-0000) in the household under 6 years of age or an individual in the household who has a disability (see OAR 461-001-0015) that substantially reduces or eliminates the individual's ability to care for himself or herself.

(D) A client who provides care for at least 30 hours a week for an individual in another household who has a disability (see OAR 461-001-0015) that substantially reduces or eliminates the individual's ability to care for himself or herself.

(E) A client enrolled at least half-time, as defined by the school, in any high school or equivalent program recognized by a school district or enrolled at least half-time in any school, training program, or institution of higher education. Clients remain exempt during normal periods of class attendance, vacation and recess but no longer qualify for the student exemption when a break in enrollment occurs due to graduation, suspension or expulsion or when the student drops out of school or does not intend to register for the next normal school term (excluding summer term).

(F) A client receiving REF or TANF benefits, while a mandatory participant in the JOBS program.

(G) A client who is in receipt of unemployment insurance benefits or has completed an application for unemployment insurance benefits and is waiting for an initial decision on the claim, if the client was required to register for work at an office of the Oregon Employment Department.

(H) A participant in a drug or alcohol treatment and rehabilitation program.

(I) A pregnant client.

(J) A client living in an area where the OFSET program is available to clients but who:

(i) Lacks adequate dependent care;

(ii) Does not have adequate transportation available; or

(iii) Experiences a barrier to employment, such as being homeless or having a short-term physical or mental limitation or a serious family problem.

(b) A mandatory client is an individual in the need group (see OAR 461-110-0630); who is 16 or 17 years of age and a primary person (see OAR 461-001-0015), or 18 years of age and older but not yet 60; and who is not exempt under subsection (a) of this section.

(c) A volunteer is a client who is not a mandatory client who chooses to participate in an employment program.

(3) In the Pre-TANF, REF, and TANF programs:

(a) Except as stated otherwise in the following paragraphs, the following clients are exempt from participation and disqualification in the employment programs covered by Chapter 461:

(A) A client who is in the ninth month of pregnancy or experiencing medical complications due to pregnancy that prevent participation in employment or self-sufficiency components (see OAR 461-001-0025) of an employment program.

(B) A client during the first six months after giving birth except to participate in parenting classes or family stability activities (see OAR 461-001-0000).

(C) A client under 20 years of age during the first 16 weeks after giving birth except that the client may be required to participate in suitable activities with a preference for educational activities, parenting classes, and family stability activities.

(D) A parent (see OAR 461-001-0000) providing care for a family member who lives in the home and has a disability (see OAR 461-001-0000).

(E) An REF client 65 years of age or older.

(F) A TANF client 60 years of age or older.

(G) A non-citizen who is not authorized to work in the United States.

(H) A recipient of supplemental security income (SSI) from the Social Security Administration.

(I) A caretaker relative (see OAR 461-001-0000) who is non-needy.

(J) If participation is likely to cause undue hardship or is contrary to the best interests of the child (see OAR 461-001-0000) or needy caretaker relative.

(K) A client who participates more than 10 hours per week during the seventh and eighth months of pregnancy.

(L) A VISTA volunteer.

(b) A parent of a child who receives TANF is mandatory if the parent is in the same filing group (see OAR 461-110-0330) with the child (even if the parent is not in the TANF benefit group under OAR 461-110-0750), unless the parent is otherwise exempt from participation under subsection (a) of this section.

(c) A volunteer is a client who is exempt from participation (see subsection (a) of this section) who chooses to participate in an employment program.

(4) In the FS, REF, and TANF programs, a client may not be disqualified for conduct that occurred while a volunteer.

(5) In the Post-TANF program, a client is classified as a volunteer and may not be disqualified.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.006, 412.009, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.006, 412.009, 412.049

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 12-2000(Temp), f. 5-1-00, cert. ef. 5-1-00 thru 9-30-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-135-0010

Assumed Eligible for Medical Programs

(1) This rule sets out when a client is assumed eligible for certain medical programs because the client receives or is deemed to receive benefits of another program.

(2) Except for a client in a two-parent family for which deprivation is based on unemployment or underemployment of the primary wage earner; a client disqualified for failure to pursue cost-effective, employer-sponsored health insurance as required by OAR 461-120-0345; a client who does not meet the citizenship and alien status requirements set forth in OAR 461-120-0110; and a client who does not meet a citizenship verification requirement set forth in OAR 461-115-0705, the following individuals are assumed eligible for MAA:

(a) A client receiving or eligible to receive TANF cash benefits.

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(b) A client whose TANF cash benefits are being paid as wages through the JOBS Plus program.

(c) A client who receives no TANF cash benefits because of failure by the client to comply with the requirements for a recipient of the JOBS program, or a requirement for evaluation or treatment of substance abuse or mental health (OAR 461-135-0085).

(d) A client in the Pre-TANF program (see OAR 461-135-0475).

(e) A child in a benefit group (see OAR 461-110-0750) whose grant is affected by a failure to comply with the requirements of OAR 461-120-0340 regarding paternity or child support.

(3) A pregnant woman who is eligible for and receiving benefits the day the pregnancy ends is assumed eligible for EXT, MAA, MAF, OHP (except OHP-CHP), OSIPM, or SAC until the last day of the calendar month in which the 60th day after the last day of the pregnancy falls.

(4) A pregnant woman who was eligible for and receiving benefits under the EXT, GAM, MAA, MAF, OHP-OPP, OHP-OPU, OSIPM, or SAC program but becomes ineligible while pregnant is assumed eligible for Medicaid.

(5) A child (see OAR 461-001-0000) born to a mother eligible for and receiving EXT, MAA, MAF, OHP (except OHP-CHP), OSIPM, or SAC benefits is assumed eligible for medical benefits. A child who is continuously a member of the household group of his or her mother is eligible under this section until the end of the month the child turns one year of age.

(6) Except for a child who does not meet a citizenship verification requirement set forth in OAR 461-115-0705, the following children are assumed eligible for SAC:

(a) A child who is the subject of an adoption assistance agreement with another state.

(b) A child in a state-subsidized, adoptive placement, if an adoption assistance agreement is in effect between a public agency of the state of Oregon and the adoptive parents that indicates the child is eligible for Medicaid.

(7) The individuals described in subsection (a) and (b) of this section are assumed eligible for OSIPM (except OSIPM-EPD) unless subsection (c) or (d) of this section applies:

(a) A recipient of SSI benefits.

(b) An individual deemed eligible for SSI under Sections 1619(a) or (b) of the Social Security Act (42 U.S.C. 1382h(a) or (b)), which cover individuals with disabilities whose impairments have not changed but who have become gainfully employed and have continuing need for OSIPM.

(c) An individual described in subsection (a) or (b) of this section who is in a nonstandard living arrangement (see OAR 461-001-0000) is not eligible for long-term care (see OAR 461-001-0000) services if the individual would otherwise be ineligible for OSIPM due to a disqualifying transfer of assets (OAR 461-140-0210 to 461-140-0300 regulate the effect of a transfer of assets on a client).

(d) An individual described in subsection (a) or (b) of the section who is in a nonstandard living arrangement is not assumed eligible for long-term care services if countable resources exceed the limit after performing the calculation under OAR 461-160-0580.

(8) A client who receives both benefits under Part A of Medicare and SSI benefits is assumed eligible for the QMB-BAS program.

(9) A client is assumed eligible for REFM if:

(a) The client is receiving cash assistance through the REF program;

(b) The client loses eligibility for cash assistance through the REF program only because of income or resources;

(c) The client loses eligibility for the EXT, MAA, MAF, or SAC programs, but still meets the requirements of the REFM program; or

(d) The client had refugee-related medical assistance established in another state based on refugee status granted by the United States Citizenship and Immigration Services, and moved to Oregon within the client's first eight months in the United States.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 412.049, 414.025, 414.042, 1999 Or. Laws ch. 859

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 12-1999(Temp), f. & cert. ef. 10-1-99 thru 1-31-00; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 12-2006(Temp), f. & cert. ef. 9-1-06 thru 12-31-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-135-0082

Eligibility for Refugees

Clients are eligible for the Refugee Case Services Program if they meet the requirements of all of the following sections:

(1) Have an alien status listed in OAR 461-120-0120.

(2) Entered the United States on or after October 1, 1997.

(3) Live in Clackamas, Multnomah, or Washington County.

(4) With the exception of Afghan special immigrants, have resided in the United States less than eight months or have been granted asylum within the last eight months. The month in which the refugee was admitted to the United States as a refugee, or was granted asylum, counts as the first month. Afghan special immigrants must have resided in the United States for six months or less. The month in which the special immigrant was admitted to the United States as a special immigrant counts as the first month. If a special immigrant was granted special immigrant status after having already entered the United States, then the month that the status was granted counts as the first month.

(5) Meet the eligibility requirements contained in OAR 461-193-0000 to 461-193-1380.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 3-2008(Temp), f. & cert. ef. 1-30-08 thru 7-28-08; SSP 4-2008(Temp), f. & cert. ef. 2-22-08 thru 7-28-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-135-0400

Specific Requirements; ERDC

The Department makes payments for child care, including care covered by the ERDC program, subject to the provisions of division 165 of this chapter of rules. To be eligible for ERDC, a filing group (see OAR 461-110-0350) must meet the following requirements:

(1) For a filing group to be eligible for the ERDC-BAS program:

(a) At least one caretaker (see OAR 461-001-0000) must receive income from employment, including employment through a work study program. For clients who are in the start-up phase of self-employment, working on commission, or participating in job-related training that is a condition of employment, the requirement to have earned income may be waived for three months; and

(b) A child who needs child care must meet the citizenship or alien status requirements of OAR 461-120-0110.

(2) The family must have an allowable child care need as described in OAR 461-160-0040. If in the filing group there are two adults who are required to be in the filing group, and if one of the adults is unemployed, the unemployed adult is considered available to provide child care, making the group ineligible, except in the following situations:

(a) The unemployed adult is physically or mentally unable to provide adequate child care.

(b) The unemployed adult is unavailable to provide care while participating in requirements of a case plan (see OAR 461-001-0025) other than requirements associated with post-secondary education.

(3) The caretaker must use a child care provider who meets the requirements in OAR 461-165-0160 and 461-165-0180.

(4) A client is not eligible for a child care payment in the ERDC program for more than six calendar months if the client is unwilling to obtain for the child a Certificate of Immunization Status.

(5) It is a requirement for eligibility in the ERDC-BAS program that child care is necessary to enable the caretaker to remain employed.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 35-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-135-0493

Eligibility and Benefit Amount for DFSP

(1) To be eligible for emergency food stamp assistance during a disaster, a household must meet all the following criteria:

(a) At the time the disaster struck, the household must have resided within the geographical area authorized by Food and Nutrition Services (FNS) for disaster procedures. The household may be certified for emergency food stamp assistance even if at the time of application it is occupying temporary accommodations outside the disaster area. However, the representative of the household must be present at the disaster certification site to be certified for disaster food stamp assistance.

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(b) The household must purchase food during the disaster period authorized by FNS. A household residing in a temporary shelter but not expected to remain in the shelter for the entire benefit period is eligible for Disaster Food Stamp Program (DFSP) benefits.

(c) The household must have experienced at least one of the following adverse effects due to the disaster:

(A) Loss or inaccessibility of income involving a reduction or termination of income or a significant delay in receipt of income. This effect could occur if the disaster has caused a place of employment to close or reduce its work days, if pay checks or other payments are lost or destroyed, or if there is a significant delay in the issuance of pay checks or other payments. This effect could also occur if the work location is inaccessible due to the disaster.

(B) Inaccessibility of liquid resources. The household is unable to reach its cash resources and is not expected to be able to access its liquid resources for most of the disaster benefit period authorized by FNS. This inaccessibility may occur because the financial institutions where the household has its resources are closed due to the disaster.

(C) Loss of food.

(D) Real property damage. Damage to or destruction of the home or self-employment business of the household.

(2) To be eligible for emergency food stamp assistance during a disaster, the take-home pay of the household for the disaster benefits period authorized by FNS, plus its cash resources (cash on hand and accessible funds in checking and savings accounts), less disaster-related expenses, must be less than or equal to the DFSP income standard for the size of the household.

(a) For DFSP, take-home pay includes all of the following to the extent accessible during the benefit period:

(A) The wages a household actually receives after taxes and other payroll withholdings are taken out.

(B) The assistance payment or other unearned income a household received.

(C) Self-employment income earned after taxes for personal income and social security as well as costs of producing the self-employment income are subtracted. Allowable costs of producing the self-employment income are described in OAR 461-145-0920, 461-145-0930, and 461-145-0931.

(b) For DFSP, disaster-related expenses include expenses the household has paid or is expected to pay for one of the following expenses during the disaster benefit period authorized by FNS if full reimbursement is not expected during this disaster benefit period. If the household has received or reasonably anticipates receiving a reimbursement for part or all of the expense during the disaster benefit period, only the net expense to the household is deductible. An expense charged to a credit card is not an allowable expense if the credit card bill is paid after the disaster benefit period. No expenses are considered other than the following:

(A) Expenses to repair damages to the home or other property of the household essential to the employment or self-employment of a household member;

(B) Expenses for temporary shelter during evacuation or if the home of the household is not livable or if the household cannot reach its home;

(C) Expenses related to protecting property from disaster damage, including payment for the packing and storage of the items;

(D) Expenses to clean up the home or business following the disaster;

(E) Expenses related to replacing necessary personal and household items, such as clothing, appliances, tools, and educational materials;

(F) Medical expenses for disaster-related injury to a person who was a household member at the time of the disaster (including funeral and burial expenses in the event of death);

(G) Expenses to repair a vehicle damaged in the disaster;

(H) Pet boarding fees when a pet must be placed in boarding due to a disaster; and

(I) Dependent care expenses incurred during the disaster.

(3) If the disaster benefit period is one month:

(a) Income over that full month period and all accessible resources are counted;

(b) Disaster-related expenses (described in subsection (2)(b) of this rule) paid, or expected to be paid over that full month period, are deducted; and

(c) The maximum income limit is for a one-month period.

(4) If the disaster benefit period is for one-half month:

(a) Income over the half-month period and all accessible resources are counted;

(b) Disaster-related expenses (described in subsection (2)(b) of this rule) paid, or expected to be paid over this period, are deducted; and

(c) The disaster eligibility limit is one-half of the monthly food stamp maximum limit.

(5) The full amount of accessible cash resources must be counted, regardless of the length of the disaster benefit period.

(6) No disaster food stamp benefits are authorized after the expiration of the period for which the Department is authorized by FNS to process and approve applications for this emergency food stamp assistance.

(7) A household determined eligible must receive benefits no later than three days after the date of application. If the third day falls on a weekend or holiday, benefits must be issued on either:

(a) The second day; or

(b) The first day if the second day is also a weekend or holiday.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 13-2007(Temp), f. & cert. ef. 12-17-07 thru 12-31-07, Administrative Correction 1-24-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-135-0494

DFSP Treatment of Households Already Certified and Receiving Food Stamps

(1) Households certified for food stamps may also be eligible for emergency food stamp assistance from the DFSP according to OAR 461-135-0491 to 461-135-0497.

(2) When food purchased with food stamp benefits is damaged by a disaster, the value of the damaged food is replaced using OAR 461-165-0230. The replaced food stamp benefits are not included in the loss of food under OAR 461-135-0493.

(3) The disaster benefits are calculated using the maximum disaster benefits for the benefit group (see OAR 461-110-0750) minus the regular food stamp allotment for the benefit period.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 23-2008, f. & cert. ef. 10-1-08

461-135-0506

Transitional Benefit Alternative (TBA) in the Food Stamp Program

(1) This rule establishes the transitional benefit alternative (TBA). A client participating in TBA continues to receive food stamp benefits without reduction during the transition period. The transition period is five months. If the filing group (see OAR 461-110-0370) separates into two groups during the TBA period, only the group containing the head of household continues in the TBA.

(2) In the Food Stamp program, a client who receives a cash grant from the Department in the SFPSS or TANF programs may participate in TBA when the benefits are stopped, except as provided in section (4) of this rule.

(3) The benefit level for the transition period is based on countable income for FS during the last month before TBA begins, but the Title IV-A grant is not counted as income. Once it is established, the TBA benefit level is changed only when:

(a) The filing group submits a new application in the Food Stamp program and will receive more food stamps if they are not using the TBA reporting system;

(b) A member of the filing group leaves and applies for food stamps as a member of another household; or

(c) The Department initiates a change identified in OAR 461-170-0200.

(4) A household may not participate in TBA in each of the following situations:

(a) A member of the filing group is receiving benefits of the TANF program.

(b) The TANF benefits are stopped because the household does not reside in Oregon.

(c) The TANF benefits are stopped because of a change that results in ineligibility for TANF and the household failed to complete a timely report or to complete a required action on time.

(d) As of the date the TANF case closed, an individual in the household was serving a penalty imposed in the TANF program.

(e) The TANF benefits are stopped at the request of the household after the household is informed of an impending disqualification in the TANF program.

(f) The head of household becomes ineligible for the Food Stamp program because he or she lives in an institution or in a facility that provides at least 50 percent of the meals.

(g) A member of the financial group (see OAR 461-110-0530) is subject to a penalty in the Food Stamp program because of the individual's conduct, for instance, because the individual:

(A) Was excluded from the need group under OAR 461-110-0630(5);

(B) Was penalized for failure to meet a requirement of an employment program;

(C) Was ineligible for food stamps under OAR 461-105-0410; or

(D) Was ineligible for or disqualified from participation in the Food Stamp program because of a failure to comply with a requirement of the program to provide complete and accurate information to the Department.

ADMINISTRATIVE RULES

(5) Once the TBA benefits have ended, a client's eligibility for the Food Stamp program is determined on the basis of a new application.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-135-0930

Medical Coverage for Refugees; REFM

Clients eligible for REFM benefits are eligible for the same medical coverage as clients in the MAA, MAF, and OSIPM programs

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 23-2008, f. & cert. ef. 10-1-08

461-135-0990

Specific Requirements; Reimbursement of Cost-Effective, Employer-Sponsored Health Insurance Premiums

Clients in the EXT, GAM, MAA, MAF, OHP (except OHP-CHP and OHP-OPU), OSIPM, and SAC programs are reimbursed for their share of the premiums for employer-sponsored health insurance if:

(1) The insurance is provided through a member of the household group (see OAR 461-110-0210);

(2) The insurance covers a member of the benefit group (see OAR 461-110-0750);

(3) The insurance coverage is a comprehensive plan (that is, includes basic or major medical services) or is a fully capitated health plan (FCHP) or physicians care organization (PCO); and

(4) The premium is cost-effective (see OAR 461-155-0360).

Stat. Auth.: ORS 411.060, 411.070, 414.042

Stats. Implemented: ORS 411.060, 411.070, 414.042

Hist.: AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08

461-135-1235

TA-DVS; Right to Hearing

A client whose application is denied or who does not receive a decision on an application by the close of the second business day following the date the application is complete is entitled to an expedited hearing (see OAR 461-025-0315). A dispute over the amount of any payment provided to or for the client is resolved in an expedited hearing; other disputes about the contents of a case plan is resolved through re-engagement.

Stat. Auth.: ORS 411.060 & 418.100

Stats. Implemented: ORS 411.060, 411.117 & 418.100

Hist.: AFS 9-1999, f. & cert. ef. 7-1-99; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 23-2008, f. & cert. ef. 10-1-08

461-140-0296

Length of Disqualification Due to An Asset Transfer; GA, GAM, OSIP, OSIPM

(1) This rule applies to clients in the GA, GAM, OSIP, and OSIPM programs who live in a nonstandard living arrangement (see OAR 461-001-0000).

(2) A financial group containing a member disqualified due to the transfer of an asset is disqualified from receiving benefits. The length of a disqualification period resulting from the transfer is the number of months equal to the uncompensated value (see OAR 461-140-0250) for the transfer divided by the following dollar amount:

(a) If the initial month (see OAR 461-001-0000) is prior to October 1, 1998 — \$2,595.

(b) If the initial month is on or after October 1, 1998 and prior to October 1, 2000 — \$3,320.

(c) If the initial month is on or after October 1, 2000 and prior to October 1, 2002 — \$3,750.

(d) If the initial month is on or after October 1, 2002 and prior to October 1, 2004 — \$4,300.

(e) If the initial month is on or after October 1, 2004 and prior to October 1, 2006 — \$4,700.

(f) If the initial month is on or after October 1, 2006 and prior to October 1, 2008 — \$5,360.

(g) If the initial month is on or after October 1, 2008 — \$6,494.

(3) For transfers by a client and the spouse of a client that occurred before July 1, 2006:

(a) Add together the uncompensated value of all transfers made in one calendar month, and treat this total as one transfer.

(b) If the uncompensated value of the transfer is less than the applicable dollar amount identified in subsections (2)(a) to (2)(f) of this rule, there is no disqualification.

(c) If there are multiple transfers in amounts equal to or greater than the applicable dollar amount identified in subsections (2)(a) to (2)(f) of this rule, each disqualification period is calculated separately.

(d) The number of months resulting from the calculation in section (2) of this rule is rounded down to the next whole number.

(e) Except as provided in subsection (3)(f) of this rule, the first month of the disqualification is the month the asset was transferred.

(f) If disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(g) If both spouses of a couple are in a nonstandard living arrangement and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period for any reason, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(4) For transfers by a client and the spouse of a client that occurred on or after July 1, 2006 and for income cap trusts under OAR 461-145-0540(9)(c) that accumulate funds in excess of the applicable dollar amount identified in subsections (2)(a) to (2)(f) of this rule:

(a) If there are multiple transfers by the client and the spouse of the client, including any transfer less than the applicable dollar amount identified in subsections (2)(a) to (2)(f) of this rule, the value of all transfers are added together before dividing by the applicable dollar amount identified in subsections (2)(a) to (2)(f) of this rule. For an income cap trust, the calculation in section (2) of this rule is performed as soon as, but not before, funds have accumulated to at least the applicable dollar amount identified in subsections (2)(a) to (2)(f) of this rule.

(b) The quotient resulting from the calculation in section (2) of this rule is not rounded. The whole number of the quotient is the number of full months the financial group is disqualified. The remaining decimal or fraction of the quotient is used to calculate an additional partial month disqualification. This remaining decimal or fraction is converted to an additional number of days by multiplying the decimal or fraction by the number of days in the month following the last full month of the disqualification period. If this calculation results in a fraction of a day, the fraction of a day is rounded down.

(c) The first month of the disqualification is:

(A) For a client who is already receiving Department-paid long-term care (see OAR 461-001-0000) or waived services (see OAR 461-001-0030) in a nonstandard living arrangement, the month following the month the asset was transferred, except that if disqualification periods calculated in accordance with this rule overlap, the periods are applied sequentially so that no two penalty periods overlap.

(B) For a new applicant who submits an application and for a client who is already receiving benefits in a standard living arrangement (see OAR 461-001-0000), the date of request (see OAR 461-115-0030) for long-term care or waived services as long as the applicant or client would otherwise be eligible but for this disqualification period. If the applicant or client is not otherwise eligible on the date of request, the disqualification begins the first date following the date of request that the applicant or client would be otherwise eligible but for the disqualification period.

(d) If both spouses of a couple are in a nonstandard living arrangement and made the disqualifying transfer, part of the disqualification is apportioned to each of them, based on their percentage of ownership in the transferred asset. If one spouse is unable to serve the resulting disqualification period, the remaining disqualification applicable to both spouses must be served by the remaining spouse.

(5) If an asset is owned by more than one person, by joint tenancy, tenancy in common, or similar arrangement, the share of the asset owned by the client is considered transferred when any action is taken either by the client or any other person that reduces or eliminates the client's control or ownership in the client's share of the asset.

(6) For an annuity that is a disqualifying transfer under section (11) of OAR 461-145-0022, the disqualification period is calculated based on the uncompensated value as calculated under OAR 461-140-0250, unless the only requirement that is not met is that the annuity pays beyond the actuarial life expectancy of the annuitant. If the annuity pays beyond the actuarial life expectancy of the annuitant, the disqualification is calculated according to section (7) of this rule.

(7) If a client or the spouse of a client purchases an annuity on or before December 31, 2005 and the annuity pays benefits beyond the actuarial life expectancy of the annuitant, as determined by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration, a disqualification period is assessed for the value of the annuity beyond the actuarial life expectancy of the annuitant.

ADMINISTRATIVE RULES

(8) A single transfer of an asset may cause a disqualification for both a medical assistance program under this rule and the SSI cash grant. The period of the disqualification is likely to be longer for SSI than for the medical assistance program, so a person may be eligible again for the medical assistance program while still disqualified from receiving SSI. The provisions of this rule are applied without regard to the related disqualification for SSI.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 26-2000, f. & cert. ef. 10-4-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 23-2008, f. & cert. ef. 10-1-08

461-145-0080

Child Support and Cash Medical Support

(1) Child support and cash medical support paid by a non-custodial parent for a dependent child or minor parent in the financial group (see OAR 461-110-0530) are considered income of the dependent child or minor parent, whether the support is paid voluntarily or in accordance with an order to pay child support.

(2) For the purposes of this rule:

(a) "Disregard" means child support, up to \$50 per dependent child or minor parent per financial group per month and not to exceed \$200 per financial group per month, that is not counted as income of the client. Disregard includes current child support only.

(b) "Pass-through" means child support, up to \$50 per dependent child or minor parent per financial group per month and not to exceed \$200 per financial group per month, that is sent to the client before any remaining amount of current child support is withheld by the State. Pass-through includes current child support only.

(3) In the ERDC program, child support is considered countable unearned income if it is received by the financial group or is countable under OAR 461-145-0280. Otherwise it is excluded.

(4) In the FS program, child support and cash medical support are treated as follows:

(a) Child support payments the group receives that must be assigned to the Department to maintain TANF eligibility are excluded, even if the group fails to turn the payments over to the Department.

(b) Child support payments received by a filing group (see OAR 461-110-0370) with at least one member working under a TANF JOBS Plus agreement are excluded, except:

(A) It is considered countable unearned income in the calculation of the wage supplement; and

(B) Any pass-through pursuant to section (2) of this rule is considered countable unearned income.

(c) All other child support, including any pass-through pursuant to section (2) of this rule, is considered countable unearned income.

(d) Cash medical support is considered countable unearned income except to the extent it is used to reimburse (see OAR 461-145-0440) an actual medical cost.

(e) Payments made by a non-custodial parent to a third party for the benefit of the financial group are treated in accordance with OAR 461-145-0280.

(5) In the MAA, MAF, REF, REFM, SAC, and TANF programs:

(a) In determining initial eligibility, except for disregard pursuant to section (2) of this rule, child support received by the Oregon Department of Justice, Division of Child Support (DCS) is considered countable unearned income, if continued receipt of the child support is reasonably anticipated. These payments are excluded when determining the benefit amount.

(b) In determining on-going eligibility, except for clients working under a TANF JOBS Plus agreement and except for child support passed through to the client and disregarded pursuant to section (2) of this rule, child support received by the DCS is considered countable unearned income, if continued receipt of the child support is reasonably anticipated. These payments are excluded when determining the benefit amount.

(c) For clients working under a TANF JOBS Plus agreement:

(A) Child support is excluded in determining countable income.

(B) Child support is excluded when calculating the TANF portion of the benefit equivalency standards.

(C) All child support paid directly to the client is considered countable unearned income in the calculation of the wage supplement.

(d) All other child support payments:

(A) Paid directly to the financial group that are not turned over to the Department or to the DCS or that are paid to a third party on behalf of a member of the financial group are considered countable unearned income.

(B) Paid directly to the financial group that are turned over to the Department or to the DCS are considered countable unearned income

except for any amount of pass-through and disregard pursuant to section (2) of this rule.

(e) Cash medical support is excluded in determining countable income.

(6) In the OHP program:

(a) Child support paid directly to the financial group or paid to a third party for the benefit of the financial group is considered countable unearned income.

(b) Cash medical support is excluded.

(7) In the OSIP, OSIPM, and QMB programs, all child support and cash medical support paid to the financial group are considered countable unearned income. Child support and cash medical support paid by the financial group are not deductible from income.

(8) In the SFPSS program, notwithstanding section (5) of this rule, for on-going eligibility and benefit determination:

(a) Except for disregard pursuant to section (2) of this rule, child support is considered countable unearned income.

(b) Cash medical support is excluded in determining countable income.

(c) Payments made by a non-custodial parent to a third party for the benefit of the financial group are treated in accordance with OAR 461-145-0280.

(9) Notwithstanding section (5) of this rule, for on-going eligibility and benefit determination for TANF clients for whom deprivation is based on the unemployment or underemployment of the primary wage earner (PWE):

(a) Except for disregard pursuant to section (2) of this rule, child support is considered countable unearned income.

(b) Cash medical support is excluded in determining countable income.

(c) Payments made by a non-custodial parent to a third party for the benefit of the financial group are treated in accordance with OAR 461-145-0280.

(d) For a filing group with at least one member working under a TANF JOBS Plus agreement:

(A) Child support is excluded in determining countable income.

(B) Child support is excluded when calculating the TANF portion of the benefit equivalency standards.

(C) All child support paid directly to the client is considered countable unearned income in the calculation of the wage supplement.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.009, 412.014, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.009, 412.014, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 7-2008(Temp), f. & cert. ef. 3-21-08 thru 9-17-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-145-0130

Earned Income; Treatment

(1) Earned income (see OAR 461-145-0120) is countable in determining eligibility for programs, subject to sections (2) to (9) of this rule.

(2) JOBS Plus income is earned income and is treated as follows:

(a) In the FS program:

(A) JOBS Plus income earned by a TANF-PLS client:

(i) Is counted in determining initial FS eligibility.

(ii) Is excluded in determining ongoing eligibility.

(B) JOBS Plus wages received after the client's last month of work under a TANF-PLS JOBS Plus agreement are counted.

(b) In the TANF program:

(A) JOBS Plus income earned by an NCP-PLS client is counted in determining initial TANF eligibility.

(B) When determining the need for a TANF supplement for a TANF-PLS client, the income is treated as follows:

(i) It is excluded in determining the countable income limit and in calculating the benefit equivalency standards.

(ii) It is counted in calculating the wage supplement.

(C) JOBS Plus wages received after the client's last month of work under a JOBS Plus agreement are counted.

(c) In all programs other than the FS and TANF programs, TANF-PLS income is counted.

(d) In all programs other than the TANF program, NCP-PLS income is counted as earned income.

(e) In all programs, client wages received under the Oregon Employment Department UI JOBS Plus or the Tribal TANF JOBS programs are counted as earned income.

ADMINISTRATIVE RULES

(3) Welfare-to-Work work experience income is treated as follows:

(a) In the EXT, MAA, MAF, REF, REFM, and TANF programs, the income is earned income, and the first \$260 is excluded each month.

(b) In the FS and OHP programs, the income is earned income.

(4) In the ERDC and OHP programs, earned income of a child is excluded.

(5) In the EXT, MAA, MAF, REF, REFM, SAC, and TANF programs:

(a) Earned income of the following children is excluded:

(A) Dependent children under the age of 19 years, and minor parents under the age of 18 years, who are full-time students in grade 12 or below (or the equivalent level of vocational training, in GED courses), or in home schooling approved by the local school district.

(B) Dependent children under the age of 18 years who are attending school part-time (as defined by the institution) and are not employed full-time.

(C) Dependent children too young to be in school.

(b) Income remaining after the month of receipt is a resource.

(c) In-kind earned income is excluded (see OAR 461 145-0280 and 461-145-0470).

(6) In the FS program:

(a) If a cafeteria plan (see OAR 461-001-0000) benefit that the employee cannot elect to receive as a cash payment is designated and used to pay for child care, medical care, or health insurance, the benefit is excluded unless it is reimbursed by the Department or allowed as an earned income deduction.

(b) The following types of income are excluded:

(A) The earned income of an individual under the age of 18 years who is under the parental control of another member of the household and is:

(i) Attending elementary or high school;

(ii) Attending GED classes recognized by the local school district;

(iii) Completing home-school elementary or high school classes recognized by the local school district; or

(iv) Too young to attend elementary school.

(B) In-kind earned income, except as provided in section (7) of this rule.

(C) Deductions from base pay for future educational costs under Pub. L. No. 99-576, 100 Stat. 3248 (1986), for clients on active military duty.

(D) Income remaining after the month of receipt is a resource.

(7) In the FS and OHP programs, earned in-kind income (see OAR 461-145-0280) is excluded unless it is an expenditure by a business entity that benefits a principal (see OAR 461-145-0088).

(8) In the MAA and MAF programs, earned income that would result in MAA or MAF ineligibility is excluded for a caretaker relative in an MAA or MAF filing group with at least one person eligible for and receiving MAA or MAF prior to meeting the three of six month requirement. (See OAR 461-135-0095.)

(9) In all programs except the EXT and FS programs, and for an OSIPM client in nonstandard living arrangement (see OAR 461-001-0000), the income of a temporary employee of the U.S. Census Bureau employed to assist in taking the census is excluded.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.014, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 412.014, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 9-1990, f. & cert. ef. 3-2-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. & cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 17-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 7-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08

461-145-0145

Educational Account

(1) The Individual Education Account (IEA) is an asset accrued by JOBS Plus participants. The IEA is excluded while it accumulates, while it is saved, and when it is withdrawn for educational purposes.

(2) In the Food Stamp program, the value of funds in a qualified tuition program under section 529 of the Internal Revenue Code or in a Coverdell education savings account is excluded.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049

Hist.: AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; Renumbered from 461-145-0265, SSP 23-2008, f. & cert. ef. 10-1-08

461-145-0150

Educational Income

(1) Educational income is income designated specifically for educational expenses. To be considered educational income, the income must be received by one of the following:

(a) A student at a recognized institution of post-secondary education. Post-secondary education is education offered primarily to individuals 18 years of age or older. Admission may — but does not necessarily — require a high school diploma or equivalent.

(b) A student at a school for individuals with disabilities.

(c) A student in a vocational education program.

(d) A student in a program that provides for completion of requirements for a secondary school diploma or the equivalent.

(2) To determine the amount of educational income to exclude, education expenses listed in the financial aid award letter are used unless one of the following is true:

(a) The student provides verification of amounts different from those listed in the award letter, in which case the verified amounts from the student are used.

(b) The student receives child care benefits — ERDC or other child care subsidies. The amount the student actually pays for child care (including the ERDC copay) is excluded as educational income instead of the amount shown in the award letter.

(c) The student states that actual transportation costs exceed the amount allowed for the expense in the award letter. In that situation, the number of miles to and from school is multiplied by \$0.20. The product or the amount from the award letter, whichever is greater, is excluded.

(3) The following items are excluded:

(a) Educational income authorized by the Carl D. Perkins Vocational and Applied Technology Education Act or Title IV of the Higher Education Act or made available by the Bureau of Indian Affairs (BIA).

(b) All income from educational loans.

(4) Except as provided in section (5) of this rule, the cost of the following items from remaining educational funds (including non-Title IV work study) is excluded:

(a) Tuition, mandatory fees, books and supplies, transportation, required rental or purchase of equipment or materials charged to students enrolled in a specific curriculum, other miscellaneous personal expenses (except room and board), and loan originator fees and insurance premiums required to obtain an educational loan.

(b) In all programs except ERDC — dependent care.

(5) For a participant in the Parents as Scholars (PAS) component of the JOBS program who has been approved for PAS pursuant to OAR 461-190-0199, all remaining educational funds, including those funds intended for room and board, are excluded.

(6) In all programs covered by chapter 461 of the Oregon Administrative Rules, after allowing exclusions, the remaining income is treated as follows:

(a) Income received through work study (including work study provided through a VA program or other educational program), fellowships and teaching-assistant positions not excluded by section (3) or (4) of this rule is earned income.

(b) Educational income not covered by subsection (a) of this section is treated as follows:

(A) In all programs except OHP, educational income is prorated over the period it is intended to cover. If the client has already received the income, the prorated amount is counted monthly beginning with the first month of the period. If the client has not received the income at the time the determination is made, the prorated income is counted starting in the month the client expects to receive it.

(B) In the OHP program, educational income is counted in the month received.

Stat. Auth.: ORS 411.060 & 411.816

Stats. Implemented: ORS 411.060 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 16-1993, f. & cert. ef. 9-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 23-2008, f. & cert. ef. 10-1-08

461-145-0330

Loans and Interest on Loans

(1) This rule covers proceeds of loans, loan repayments, and interest earned by a lender. If the proceeds of a loan are used to purchase an asset, the asset is evaluated under the other rules in this division of rules.

(2) For purposes of this rule:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) "Bona fide loan agreement" means an agreement that:

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- (i) Is enforceable under state law;
- (ii) Is in effect at the time the cash proceeds are provided to the borrower; and

(iii) Includes an obligation to repay and a feasible repayment plan.

(B) "Negotiable loan agreement" means a loan agreement in which the instrument ownership and the whole amount of money expressed on its face can be transferred from one person to another (i.e., sold) at prevailing market rates.

(b) In all programs:

(A) "Reverse-annuity mortgage" means a contract with a financial institution (see OAR 461-001-0000) under which the financial institution provides payments against the equity in the home that must be repaid when the homeowner dies, sells the home, or moves.

(B) The proceeds of a home equity loan or reverse-annuity mortgage are considered loans.

(3) For payments that a member of the financial group (see OAR 461-110-0530) receives as a borrower to be treated as a loan:

(a) In the FS, GA, GAM, OHP, OSIP, OSIPM, and QMB programs, there must be an oral or written loan agreement, and this agreement must state when repayment of the loan is due to the lender.

(b) In programs other than the FS, GA, GAM, OHP, OSIP, OSIPM, and QMB programs, there must be a written loan agreement, and this agreement must be signed by the borrower and lender, dated before the borrower receives the proceeds of the loan, and state when repayment of the loan is due to the lender.

(4) Payments for a purported loan that do not meet the requirements of section (3) of this rule are counted as unearned income.

(5) When a member of a financial group receives cash proceeds as a borrower from a loan that meets the requirements of section (3) of this rule:

(a) In all programs, educational loans are treated according to OAR 461-145-0150.

(b) In the ERDC, EXT, FS, MAA, MAF, OHP, REF, REFM, SAC, and TANF programs, the loan is excluded. If retained after the month of receipt, the loan proceeds are treated in accordance with OAR 461-140-0070.

(c) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) If the loan is a bona fide loan agreement, the money provided by the lender is not income but is counted as the borrower's resource if retained in the month following the month of receipt (notwithstanding OAR 461-140-0070).

(B) If the loan is not a bona fide loan agreement, the money provided by the lender is counted as income in the month received and is counted as a resource if retained in the month following the month it was received.

(6) In the OSIPM program, if a client or a spouse of a client uses funds to purchase a mortgage or to purchase or lend money for a promissory note or loan:

(a) In a transaction occurring on or after July 1, 2006:

(A) The balance of the payments owing to the client or spouse of the client is a transfer of assets for less than fair market value, unless all of the following requirements are met:

(i) The total value of the transaction is being repaid to the client or spouse of the client within three months of the client's life expectancy per that person's actuarial life expectancy as established by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration.

(ii) Payments are made in equal amounts over the term of the transaction without any deferrals or balloon payments.

(iii) The contract is not cancelled upon the death of the individual receiving the payments under this transaction.

(B) If the loan results in a disqualification and the disqualification period has been served, payments against the principal and interest are treated as unearned income.

(b) In a transaction occurring before July 1, 2006 or for a transaction occurring on or after July 1, 2006 that does not result in a disqualification in subsection (a) of this section, the loan is treated as follows:

(A) Interest income is treated as unearned income.

(B) The loan is counted as a resource if:

(i) The financial group includes a client in a nonstandard living arrangement (see OAR 461-001-0000) and the client's spouse;

(ii) The transaction is on or after the date of the first continuous period of care (see OAR 461-001-0030); and

(iii) The amount of the loan plus other resources transferred exceeds the largest amount in OAR 461-160-0580(2)(f).

(C) For all other loans:

(i) If the loan is both a negotiable loan agreement and a bona fide loan agreement, the loan is counted as a resource valued at the outstanding principal balance.

(ii) If the loan does not qualify under subparagraph (i) of this paragraph, payments against the principal are counted as unearned income.

(7) In the GA, GAM, OSIP, and QMB programs:

(a) Interest income is treated as unearned income.

(b) If the loan is both a negotiable loan agreement and a bona fide loan agreement, the loan is counted as a resource of the lender valued at the outstanding principal balance.

(c) If the loan does not qualify under subsection (b) of this section, the payments against the principal are counted as income to the lender.

(8) In all programs other than the GA, GAM, OSIP, OSIPM, and QMB programs:

(a) The interest payment is counted as unearned income.

(b) The payment of principal is excluded.

Stat. Auth.: ORS 411.060, 411.816, 412.014, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.816, 412.014, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 23-2008, f. & cert. ef. 10-1-08

461-145-0380

Pension and Retirement Plans

(1) Pension and retirement plans include the following:

(a) Benefits employees receive only when they retire. These benefits can be disbursed in lump-sum or monthly payments.

(b) Benefits that employees are allowed to withdraw when they leave a job before retirement.

(c) The following retirement plans and annuities if purchased by a client with funds from the plans authorized by section 408 of the Internal Revenue Code of 1986 at subsections (a), (b), (c), (k), (p) or (q), or at section 408A:

(A) Individual Retirement Annuity.

(B) Individual Retirement Account.

(C) Deemed Individual Retirement Account or Annuity under a qualified employer plan.

(D) Accounts established by employers and certain associations of employees.

(E) Simplified Employee Pension (SEP).

(F) Simple Retirement Account.

(2) An annuity purchased by the spouse (see OAR 461-001-0000) of a client with funds from a retirement plan described in subsection (1)(c) of this rule is not considered a retirement plan and is treated in accordance with OAR 461-145-0020 and 461-145-0022.

(3) Benefits the client receives from pension and retirement plans are treated as follows:

(a) Monthly payments are counted as unearned income.

(b) All payments not covered by subsection (a) of this section are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).

(4) In the OSIP, OSIPM, and QMB programs:

(a) Except for an annuity purchased with funds from a retirement plan described in subsection (1)(c) of this rule:

(A) The equity value (see OAR 461-001-0000) of a pension or retirement plan is excluded as a resource if the individual is eligible for monthly or periodic payments under the terms of the plan and has applied for those payments.

(B) The equity value of all pension and retirement plans not covered by paragraph (A) of this subsection that allow clients to withdraw funds, minus any penalty for withdrawal, is counted as a resource.

(b) The equity value of an annuity purchased with funds from a retirement plan described in subsection (1)(c) of this rule is excluded as a resource if it meets the payout requirements of OAR 461-145-0022(10)(c). Otherwise, the equity value is counted as a resource.

(5) In all programs except the OSIP, OSIPM, and QMB programs, pension and retirement plans that allow clients to withdraw funds before retirement are treated as follows:

(a) In the FS program, the value of retirement accounts identified in sections 401(a), 403(a), 403(b), 408, 408A, 457(b), or 507(c)(18) of the Internal Revenue Code, or in a Federal Thrift Savings Plan account are excluded resources.

(b) In the OHP program, the equity value of the plan is excluded as a resource.

(c) Except in the FS and OHP programs, the equity value of the plan, minus any penalty for early withdrawal, is counted as a resource.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.014, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.014, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08

ADMINISTRATIVE RULES

461-145-0410

Program Benefits

(1) EA and TA-DVS payments are treated as follows:

(a) In the ERDC and FS programs, a payment made directly to the client is counted as unearned income. Dual payee and provider-direct payments are excluded.

(b) In all programs except the ERDC and FS programs, these payments are excluded.

(2) Payments from ERDC and TANF child care are excluded unless the client is the provider.

(3) Payments from the EXT, GAM, MAA, MAF, OHP, OSIPM, QMB, REFM, and SAC programs are excluded.

(4) Food Stamps payments are treated as follows:

(a) The value of an FS benefit is excluded in all programs except the EA program. In the EA program, the value is counted as a resource when determining the emergency food needs of the filing group (see OAR 461-110-0310).

(b) OFSET service payments are excluded.

(5) Benefits from the GA, OSIP (except OSIP-IC), Post-TANF, REF, SFPSS, TANF, and tribal-TANF programs (including the ten percent late processing fee discussed in OAR 461-165-0150) are treated as follows:

(a) In the EA program, these payments are counted as unearned income, except that these payments are excluded for a benefit group (see OAR 461-110-0750) whose emergent need is the result of domestic violence (see OAR 461-001-0000).

(b) In the ERDC program:

(A) Post-TANF payments are excluded.

(B) All other payments are counted as unearned income.

(c) In the FS program:

(A) These payments are treated as unearned income.

(B) An amount received as a late processing payment is treated as lump-sum income.

(C) Payments made to correct an underpayment are treated as lump-sum income.

(D) Ongoing special needs payments for laundry allowances, special diet or meal allowance, restaurant meals, accommodation allowances, and telephone allowances are treated as unearned income. All other special needs payments are excluded as reimbursements.

(d) In the OHP program:

(A) GA payments are excluded from income for purposes of determining OHP eligibility.

(B) Benefits from the Post-TANF program are excluded.

(C) Benefits from the OSIP (except OSIP-IC), REF, SFPSS, and TANF programs (including the ten percent late processing fee discussed in OAR 461-165-0150) are treated as follows:

(i) The payments are counted as unearned income if all the individuals included in the benefit group for the cash payment are also in the OHP financial group (see OAR 461-110-0530).

(ii) A prorated share is counted as unearned income if any of the individuals in the cash payment are not included in the OHP financial group. A prorated share is determined by dividing the total payment by the number of individuals in the TANF benefit group.

(iii) A payment made to correct an underpayment caused by the Department is excluded if the underpayment occurred prior to the budget period.

(e) In all programs except the EA, ERDC, FS, and OHP programs:

(A) These payments are excluded in the month received, and any portion remaining following the month of receipt is counted as a resource.

(B) Payments made to correct an underpayment are excluded.

(f) In all programs:

(A) JOBS, REF, and TANF JOBS Plus support service payments are excluded.

(B) For the treatment of JOBS Plus income, see OAR 461-145-0130.

(C) REF and TANF client incentive payments are treated as follows:

(i) Except in the TANF program, the cooperation incentive payment (see OAR 461-135-0310) is counted as unearned income.

(ii) Progress and outcome incentive payments other than in-kind payments are counted as lump-sum income (see OAR 461-140-0120). All other incentives are excluded.

(6) Payments from OSIP-IC are treated as follows:

(a) In the FS program, these payments are counted as unearned income and assets held in a contingency fund (see OAR 411-030-0020) are counted as a resource.

(b) In all other programs, these payments and funds held in a contingency fund are excluded.

(7) Pre-TANF program payments are treated as follows:

(a) In the FS program, a payment for basic living expenses, made directly to the client, is counted as unearned income. All other payments are excluded.

(b) In all programs except the FS program, these payments are excluded.

Stat. Auth.: ORS 411.060, 411.816, 412.014, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.700, 411.816, 412.014, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 5-1991, f. & cert. ef. 2-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 21-1992(Temp), f. 7-31-92, cert. ef. 8-1-92; AFS 32-1992, f. 10-30-92, cert. ef. 11-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 18-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-145-0470

Shelter-in-Kind Income

(1) Except as provided in section (2) of this rule:

(a) In the ERDC, GA, and GAM programs, shelter-in-kind (see OAR 461-001-0000) payments are excluded, except earned shelter-in-kind is not excluded in the ERDC program.

(b) In the EXT, MAA, MAF, REF, REFM, SAC, and TANF programs, except for child support (see OAR 461-145-0080 and 461-145-0280), shelter-in-kind payments are excluded.

(c) In the FS program, shelter-in-kind housing and utility payments are excluded (see OAR 461-145-0130 about exclusion of earned in-kind income), except an expenditure by a business entity for shelter costs (see OAR 461-001-0000) of a principal (see OAR 461-145-0088) is counted as income.

(d) In the OHP program, shelter-in-kind payments are excluded except an expenditure by a business entity for shelter costs of a principal is counted as income.

(e) In the OSIP, OSIPM, and QMB programs:

(A) Except as provided in paragraph (C) of this subsection, unearned shelter-in-kind income is treated as follows:

(i) Shelter-in-kind payments from HUD are excluded.

(ii) If the shelter-in-kind includes all housing and utilities, the Shelter-in-Kind Standard for total shelter (see OAR 461-155-0300) is counted as unearned income.

(iii) If the shelter-in-kind includes all housing (utilities are not included), the Shelter-in-Kind Standard for housing costs (see OAR 461-155-0300) is counted as unearned income.

(B) Except as provided in paragraph (C) of this subsection, earned shelter-in-kind income is treated as follows:

(i) If shelter is provided for services related to the employer's trade or business and acceptance of the shelter is a condition of employment, the shelter-in-kind income is treated in accordance with paragraph (A) of this subsection.

(ii) Except as provided in subparagraph (i) of this paragraph, the fair market value (see OAR 461-001-0000) of the shelter is counted as earned income.

(C) In the OSIP and OSIPM programs, when a prorated standard is used (see OAR 461-155-0020 and 461-155-0250) shelter-in-kind income is excluded.

(2) A payment for which there is a legal obligation to pay to a member of the financial group (see OAR 461-110-0530) that is made to a third party for shelter expenses of a member of the financial group is counted as unearned income.

Stat. Auth.: ORS 409.050, 411.060, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.700, 411.816, 412.014, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-145-0490

Social Security Benefits

Except for SSI (see OAR 461-145-0510) and death benefits remaining after burial costs (see OAR 461-145-0500), Social Security benefits are treated as follows:

(1) Monthly payments are counted as unearned income.

(2) Except as provided in sections (3) and (4) of this rule, all payments other than monthly payments are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).

(3) In the FS program, the representative payee fee paid by a client who is required by the Social Security Administration to receive payments

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through a representative payee is excluded. The amount of the exclusion is limited to the amount authorized by the Social Security Administration.

(4) In the OSIP (except OSIP-EPD), OSIPM (except OSIPM-EPD), and QMB programs:

(a) For the purposes of this section, a payment is retroactive if it is issued in any month after the calendar month for which it is intended.

(b) Retroactive payments are counted as unearned income in the month of receipt except as provided in subsection (c) of this section.

(c) When retroactive payments are made through the representative payee of an individual who is required to have a representative payee because of drug addiction or alcoholism, the retroactive payments may be required to be made in installments. If the payments are made in installments, the total of the benefits to be paid in installments is considered unearned income in the month in which the first installment is made.

(d) Any remaining amount from a retroactive payment after the month of receipt is counted as an excluded resource for nine calendar months following the month in which the payment is received. After the nine-month period, any remaining amount is a countable resource.

ed: ORS 411.060, 411.700, 411.816, 412.014, 412.049, 414.042
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 39-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-145-0600

Work-Related Capital Assets, Equipment, and Inventory

(1) As used in this rule:

(a) "Inventory" means goods that are in stock and available for sale to prospective customers.

(b) "Work-related equipment" means property essential to the employment or self-employment of a financial group member. Examples are a tradesman's tools, a farmer's machinery, and equipment used to maintain an income-producing vehicle.

(2) A capital asset (see OAR 461-001-0000), other than work-related equipment and inventory, is treated as follows:

(a) In all programs except FS, MAA, REF, REFM, and TANF, the equity value (see OAR 461-001-0000) of a capital asset is treated according to the rules for the asset.

(b) In the FS program, a capital asset used in a business is excluded as follows:

(A) Non-farm assets are excluded as long as the financial group (see OAR 461-110-0530) is actively engaged in self-employment activities.

(B) Farm assets are excluded until one year after the date the person quit self-employment as a farmer.

(c) In the MAA, REF, REFM, and TANF programs:

(A) For a self-employed client participating in the microenterprise component of the JOBS program, the value of a capital asset is excluded.

(B) For all other clients, the value of a capital asset is counted according to the rules in this division of rules.

(3) Work-related equipment is treated as follows:

(a) In the EA, ERDC, FS, and OHP programs, the equity value of work-related equipment is excluded.

(b) In the GA, OSIP, OSIPM, and QMB programs, the value of equipment needed by a client who has a disability or is blind to complete a plan for self-support (see OAR 461-135-0708) is excluded as long as the plan is in effect. For all other equipment, the equity value of the equipment is counted as a resource, except as provided at OAR 461-145-0250.

(c) In the MAA, REF, REFM, and TANF programs:

(A) For a self-employed client participating in the microenterprise component of the JOBS program, the equity value of the equipment is excluded.

(B) For all other clients, the equity value of the equipment is treated as a resource.

(d) In the MAF and SAC programs, the equity value of the equipment is treated as a resource.

(4) Inventory is treated as follows:

(a) In the EA, ERDC, FS, and OHP programs, inventory is excluded as long as the client is engaged in self-employment activities.

(b) In the GA, OSIP, OSIPM, and QMB programs, the value of inventory needed by a client who has a disability or is blind to complete a plan for self-support is excluded, as long as the plan is in effect. For all other inventory, the equity value of the inventory is counted as a resource.

(c) In the MAA, REF, REFM, and TANF programs:

(A) For a self-employed client participating in the microenterprise component of the JOBS program, the wholesale value of inventory remaining at the end of the semi-annual period covered in each income statement (see OAR 461-190-0197), less encumbrances, is counted as a resource.

(B) For all other clients, the wholesale value of inventory remaining at the end of a month, less encumbrances, is counted as a resource.

(d) In the MAF and SAC programs, the wholesale value of inventory remaining at the end of the month, minus any encumbrances, is counted as a resource.

Stat. Auth.: ORS 411.060, 411.070, 411.700, 411.816, 412.014, 412.049, 414.042
Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.700, 411.816, 412.014, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08

461-155-0020

Prorated Standards; Adjusted Number in Household

(1) Prorated standards are used only in the no-adult tables and the non-SSI OSIP and OSIPM table.

(2) In the OSIP and OSIPM programs:

(a) Prorated standards only apply when an individual or a couple receives free food and shelter from others living in the household, and the individual or couple does not have an ownership interest or rental liability in the residence.

(b) Prorated standards are not applied to cases in which a client receives services described in OAR chapter 411, division 015.

(c) *Shelter-in-kind* (see OAR 461-145-0470) may apply when prorated standards are not used.

(3) In the TANF program, the no-adult tables are used when there are no adults in TANF need group (see OAR 461-110-0630).

(4) Prorated standards are based on the number of people in the need group, compared to the adjusted number in the household group (see OAR 461-110-0210). The adjusted number in the household is determined by taking the total number of individuals in the household, minus the following individuals unless they are included in the need group:

(a) Unborns.

(b) Clients receiving long-term care or waived home and community-based care.

(c) Foster children.

(d) Children receiving adoption assistance.

(e) Live-in attendants who live with the filing group solely to provide necessary medical or housekeeping services and are paid to provide these services.

(f) Landlords and tenants. A landlord-tenant relationship exists if one person pays another at fair market value for housing and if:

(A) The filing group lives independently from the landlord or tenant;

(B) The *filing group* has and uses sleeping, bathroom, and kitchen facilities that are separate from the landlord or tenant; and

(C) If bathroom or kitchen facilities are shared, the housing must be a commercial establishment that provides either room, board, or both for fair market value compensation.

(g) In the OSIP and OSIPM programs only:

(A) The biological and adoptive children of either spouse.

(B) Recipients of EXT, GA, MAA, MAF, OHP, OSIP, OSIPM, or QMB.

Stat. Auth.: ORS 411.060, 411.070, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 17-1998, f. & cert. ef. 10-1-98; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 23-2008, f. & cert. ef. 10-1-08

461-155-0150

Child Care Eligibility Standard, Payment Rates, and Copayments

The following provisions apply to child care in the ERDC, JOBS, JOBS Plus, and TANF programs:

(1) The following definitions apply to the rules governing child care rates:

(a) Infant: A child aged newborn to 1 year.

(b) Toddler: A child aged 1 year to 3 years.

(c) Preschool: A child aged 3 years to 6 years.

(d) School: A child aged 6 years or older.

(e) Special Needs: A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for his or her age due to a physical, behavioral or mental disability. The need for a higher level of care must be determined by the provider and the disability must be verified by one of the following:

(A) A physician, nurse practitioner, licensed or certified psychologist or clinical social worker.

(B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.

(C) Eligibility for SSI.

(2) The following definitions apply to the types of care specified in the child care rate charts:

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(a) The Standard Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.

(b) The Enhanced Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider meets the training requirements of the Oregon Registry entry level, established by the Oregon Center for Career Development in Childhood Care and Education.

(c) The Registered Family Rate applies to child care provided in the provider's own home when the provider meets criteria established by the Child Care Division.

(d) The Certified Family Rate applies to child care provided in a residential dwelling that is certified by the Child Care Division as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.

(e) The Standard Center Rate applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Child Care Division Certification rules (see OAR 414-300-0000).

(f) The Enhanced Center Rate applies to child care provided in an exempt center whose staff meet the training requirements of the Oregon Registry entry level established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:

(A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry entry level training requirements noted in paragraph (2)(b) of this rule.

(B) New staff must meet the Oregon Registry entry level training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (A) of this subsection.

(C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.

(g) An exempt center is eligible to receive the enhanced rate for a maximum of six months while in the process of meeting the requirements of subsection (2)(f) of this rule if it files a statement of intent to meet the requirements on a form prescribed by the Department.

(h) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of subsection (2)(b), (f), or (g) of this rule.

(i) The Certified Center Rate applies to child care provided in a center that is certified by the Child Care Division.

(3) Subject to the provisions in section (6) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:

(a) The monthly rate provided in section (6) of this rule.

(b) The product of the hours of care, limited by section (4) of this rule, multiplied by the hourly rate provided in section (6) of this rule.

(4) The number of payable billable hours for a child is limited as follows:

(a) For the ERDC-BAS and TANF programs, the total in a month may not exceed:

(A) The number of hours of care necessary for the client to maintain his or her job including, for clients in the JOBS Plus program, the time the client searches for unsubsidized employment and for which the employer pays the client, or to participate in activities included in a case plan (see OAR 461-001-0025); or

(B) 125 percent of the time the client is at work or participating in an approved activity of the JOBS program.

(b) In the ERDC-BAS and TANF programs, for a client who earns less than state minimum wage or is self-employed, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the client's employment.

(5) The following provisions apply to all programs:

(a) Providers not eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.

(b) Providers eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 136 hours a month unless the provider customarily bills all families at a part-time monthly rate subject to the maximum full-time monthly rate.

(c) At their request, providers eligible for the enhanced or licensed rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month and customarily bill all families at a part-time monthly rate.

(d) Unless required by the circumstances of the client or child, the Department will not pay for care at a monthly rate to more than one provider for the same child for the same month.

(e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.

(f) The Department will pay for up to five days each month the child is absent if:

(A) The child was scheduled to be in care and the provider bills for the amount of time the child was scheduled to be in care;

(B) The absent child's place is not filled by another child; and

(C) It is the provider's policy to bill all families for absent days.

(g) The Department will not pay for more than five consecutive days of scheduled care for which the child is absent.

(6) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (7) of this rule, is the lesser of the following:

(a) The amount billed by the provider or providers; and

(b) The monthly rate established in section (8) of this rule multiplied by a factor, not more than 1.5, determined by dividing the number of hours billed by 215.

(7) The limit allowed by section (6) of this rule is authorized once the Department has determined the client has special circumstances. For the purposes of this rule, a client has special circumstances when it is necessary, in order for the client to perform the requirements of his or her employment or training, to obtain child care for a child in excess of 215 hours in a month.

(8) The payment available for care of a child who meets the special needs criteria described in subsection (1)(e) of this rule is increased in accordance with OAR 461-155-0151 if:

(a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age; and

(b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.

(9) The following are the child care rates. The rates are based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (that is, hourly or monthly). [Table not included. See ED. NOTE.]

(10) This section establishes the ERDC eligibility standard and the client's copayment (copay).

(a) The ERDC eligibility standard is met for need groups (see OAR 461-110-0630) of eight or less if monthly countable income (see OAR 461-001-0000) for the need group is less than 185 percent of the federal poverty level, as described in OAR 461-155-0180(4). The eligibility standard for a need group size of eight applies to any need group larger than eight.

(b) The minimum monthly ERDC copay is \$25.

(c) For filing groups (see OAR 461-110-0310) whose countable income is at or below 50 percent of the 2007 federal poverty level (FPL), the copay is \$25 or 1.5 percent of the filing group's monthly countable income, whichever is greater.

(d) For filing groups whose countable income is over 50 percent of the 2007 FPL, the copay amount is determined with the following percentage of monthly income:

(A) Determine filing group's countable income as a percent of FPL (rounding to the nearest whole number percentage), subtract 50, and multiply this difference by 0.12.

(B) Add 1.5 to the amount in paragraph (A) of this subsection. This sum is the percentage of monthly income to determine the copay amount.

(11) Effective October 1, 2003, a client's copay is \$25 during the first month the client is eligible for ERDC. This limitation cannot be used in more than one month in any 12 consecutive months.

(12) The limit in any month for child care payments on behalf of a child whose caretaker is away from the child's home for more than 30 days because the caretaker is a member of a reserve or National Guard unit that is called up for active duty is the lesser of the following:

(a) The amount billed by the provider or providers.

(b) The monthly rate established in this rule for 215 hours of care.

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

Stat. Auth.: ORS 411.060, 411.070, 418.100

Stats. Implemented: ORS 411.060, 411.070, 412.049, 2007 OL ch. 743

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 14-1992, f. & cert. ef. 6-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 10-1993, f. & cert. ef. 6-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1994, f. 4-29-94, cert. ef. 5-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 23-1995, f. 4-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 4-2000(Temp), f. 2-29-00, cert. ef. 3-1-00 thru 8-25-00; AFS 10-2000, f. 3-31-

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00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 2-2003(Temp); f. & cert. ef. 2-7-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-155-0190

Income and Payment Standards; FS

(1) The FS Countable and Adjusted Income Limits are as follows: [Table not included. See ED. NOTE.]

(2) The FS Payment Standard (Thrifty Food Plan) is: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816, 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1998(Temp), f. 9-15-98; cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08

461-155-0250

Income and Payment Standard; OSIP, OSIPM

(1) For an OSIP (except OSIP-EPD) or OSIPM (except OSIPM-EPD) client in long-term care or in a waived *nonstandard living arrangement* (see OAR 461-001-0000), the countable income limit standard is 300 percent of the full SSI standard for a single individual. Other OSIP and OSIPM clients do not have a countable income limit.

(2) The non-SSI OSIP and OSIPM (except OSIP-EPD and OSIPM-EPD) *adjusted income standard* takes into consideration the need for shelter (housing and utilities), food, and other items. The standard is itemized as follows: [Table not included. See ED. NOTE.]

(3) The standard in this section is used as the adjusted income limit for non-SSI OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) clients. The OSIP-AB and OSIPM-AB adjusted income standard includes a transportation allowance. See OAR 461-155-0020 for the adjusted number in the household. The total standard is: [Table not included. See ED. NOTE.]

(4) To be eligible for OSIP (except OSIP-EPD or OSIP-IC), a person must be receiving SSI or be eligible for an ongoing special need. The payment standard for SSI/OSIP clients living in the community is the SIP (supplemental income payment) amount. The SIP is a need amount added to any other special or service needs to determine the actual payment. In some cases, the need amount is zero.

(a) For clients whose unearned income minus any SSI or Veterans Nonservice-Connected Disability Benefits is less than \$20: [Table not included. See ED. NOTE.]

(b) For clients whose unearned income minus any SSI or Veterans Nonservice-Connected Disability Benefits is \$20 or more: [Table not included. See ED. NOTE.]

(c) The SSI OSIP-AB standard includes a transportation allowance. The standard for two assumes one individual is blind and the other is not. If both are blind, \$20 is added to the SIP amount.

(d) For spouses who each receive SSI and receive services in an AFC, ALF or RCF, an amount is added to each person's SIP payment that equals the difference between the individual's income (including SSI and other income) and the OSIP standard for a one-person need group.

(e) When one or both spouses receive SSI and are not included in subsection (d) of this section, the two-person need group is used to determine the SIP amount. This amount is used even if one (or both) of the individuals is receiving services and has a need group of one according to OAR 461-110-0630.

(5) In the OSIP and OSIPM programs, individuals in a nursing facility or an ICF-MR are allowed the following amounts for clothing and personal incidentals:

(a) For clients who receive a VA pension based on unreimbursed medical expenses (UME), \$90 is allowed.

(b) For all other clients, \$30 is allowed.

(6) In the OSIP-EPD and OSIPM-EPD programs, the adjusted earned income limit is 250 percent of the 2008 federal poverty level for a family of one. This 250 percent limit equals \$2,167 per month or \$26,004 per year.

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

Stat. Auth.: ORS 411.060, 411.070

Stats. Implemented: ORS 411.060, 411.070

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 10-2003(Temp) f. & cert. ef. 5-1-03 thru 9-30-03; SSP 26-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 2-2007(Temp), f. & cert. ef. 3-1-07 thru 3-31-07; Suspended by SSP 3-2007(Temp), f. & cert. ef. 3-9-07 thru 6-30-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; Suspended by SSP 5-2007(Temp), f. 3-30-07, cert. ef. 4-1-07 thru 6-30-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 3-1-08 thru 8-28-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-155-0360

Cost-Effective Health Insurance

(1) This rule applies to the following medical assistance programs: EXT, GAM, MAA, MAF, OHP (except OHP-CHP and OHP-OPU), OSIPM, and SAC. This rule explains how to determine whether an employer-sponsored health insurance plan is cost effective for the purpose of applying OAR 461-120-0345.

(2) The first step in making the determination of cost effectiveness is to determine the number of people in the household group who are in a benefit group of any of the programs listed in section (1) of this rule.

(3) Based on the number determined in section (2) of this rule, the maximum cost-effective premium is determined from the following tables: [Table not included. See ED. NOTE.]

(4) The insurance is cost effective if the employee's share of the premium is equal to or less than the amount determined in section (3) of this rule.

(5) If the health-insurance plan is cost effective, the Department will reimburse the actual amount of the premium, not to exceed the amount determined in section (3) of this rule.

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 23-2008, f. & cert. ef. 10-1-08

461-155-0660

Special Need; Accommodation Allowance

(1) OSIP and OSIPM clients living in a nursing facility are not eligible for an accommodation allowance. OSIP and OSIPM clients living in a nonstandard living arrangement (see OAR 461-001-0000) are not eligible for an accommodation allowance unless they are receiving, or are eligible to receive after a temporary absence, in-home waived services. OSIP and OSIPM clients who are receiving SSI (except those in a nursing facility) or are eligible to receive or are receiving in-home waived services are allowed an accommodation allowance if the client meets the criteria in section (2) or (3) of this rule.

(2) Temporary absence of client from home.

(a) A temporary accommodation allowance may be authorized, where permitted under section (1) of this rule, if a client meets the following criteria:

(A) The client leaves his or her home or rental property and enters a hospital, state psychiatric institution, nursing facility, adult foster care facility, assisted living facility, residential care facility, group care home, or specialized living facility;

(B) The client cannot afford to keep the home without the allowance;

(C) The client will be able to return home within six months of leaving, according to a written statement from a primary practitioner, RN, or PAS (pre-admission screening) RN; and

(D) The home will accommodate the service plan of the client when the client returns.

(b) The allowance may be authorized for six months. If, after six months, the client continues to meet the criteria in subsection (a) of this section, an extension may be approved in writing by a supervisor.

(c) The accommodation allowance equals the total of the client's housing cost, including taxes and insurance, plus the limited standard utility allowance for the Food Stamp program provided in OAR 461-160-0420.

(3) Additional cost for accommodation. A client receiving SSI benefits (except those in a nursing facility) or in-home waived services may receive an accommodation allowance if the client's shelter cost exceeds the

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shelter standard in OAR 461-155-0250(2) and the requirements of one of the following subsections are met:

(a) The client has a documented increase in rent associated with access by a person with a disability.

(b) The client has been assessed to need a live-in provider, has accepted the services of a live-in provider, and requires an additional bedroom for the live-in provider.

(4) The accommodation allowance is determined as follows:

(a) For clients who receive an accommodation allowance based on increased costs associated with access by a person with a disability, only the additional increase in cost for the accommodation is allowed.

(b) For clients who receive an accommodation allowance based on the need for an additional bedroom for a live-in provider, the amount of the accommodation allowance is one-third of the monthly rental cost or one-third cost of the monthly payment on an original purchase money mortgage, plus the limited standard utility allowance for the Food Stamp program provided in OAR 461-160-0420. This allowance does not cover any refinancing of the debt owed on the original purchase money mortgage unless the refinancing was done only to reduce the original purchase money mortgage's interest rate and the owner realized no direct or indirect payment of the home's equity value from the refinancing.

(5) Special requirements.

(a) A client who rents and qualifies for an allowance under section (3) of this rule must take the steps necessary to obtain subsidized housing under any federal or state housing program. A client who fails, at any time, to take the steps necessary to obtain subsidized housing reasonably available is ineligible for the allowance. A client, who has been denied or revoked from participation in any rent subsidy program based on the client's own actions is ineligible for benefits under this rule.

(b) A client who rents housing and refuses subsidized housing will no longer be eligible for an accommodation allowance, except that if the housing that is offered is not suitable, related to accommodations, and the client continues to have increased costs related to accommodations in the client's current living situation, the accommodation allowance may continue until such time as appropriate subsidized housing is found.

Stat. Auth.: ORS 411.060, 411.070 & 414.042

Stats. Implemented: ORS 411.060, 411.070 & 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 23-2008, f. & cert. ef. 10-1-08

461-160-0040

Dependent Care Costs; Deduction and Coverage

(1) In the EXT and MAF programs, the cost of child care for a dependent child (see OAR 461-001-0000) may be deducted from the income of a client in accordance with the following:

(a) The dependent child must live with the filing group;

(b) The provider of child care may not be in the filing group;

(c) The provider of child care may not be the parent (see OAR 461-001-0000) of the dependent child; and

(d) The amount of the deduction is determined as follows:

(A) In the EXT program, the amount is limited to the cost necessary for the caretaker relative (see OAR 461-001-0000) to maintain employment, including time required to commute, work, and take a meal break.

(B) In the MAF program, as set out in OAR 461-160-0190.

(2) In the FS program, dependent care is deductible (see OAR 461-160-0430) when all of the following are true:

(a) The dependent is a member of the filing group and is in the care, control, and custody of an individual in the group.

(b) The dependent care provider:

(A) Is not in the filing group; and

(B) Is not the parent of the dependent.

(c) The dependent care is necessary because the client is working, commuting, on a meal break, in training, participating in pre-employment education, or participating in an OFSET case plan (see OAR 461-001-0020).

(3) In the ERDC-BAS, REF, and TANF programs, the cost of dependent child care may be paid for by the Department (is covered) only if all of the following requirements are met. Dependent child care is necessary for the working client to maintain employment, including time required to work, commute, or take a meal break. For a client working under a JOBS Plus agreement, child care is covered during the time the client is engaged in work or in job search if the employer pays the client during that time.

(4) In the ERDC, JOBS, REF, and TANF programs, the cost of dependent child care is not covered by the Department when free care is available, such as during school hours for school-age children.

(5) Child care is not covered in the ERDC-BAS, REF, and TANF programs if the nature of the work of the caretaker does not make it necessary

for a person other than the caretaker (see OAR 461-001-0000) to provide the care. Child care is not covered during a period of time when:

(a) The caretaker works at home, or is self-employed, and the nature of the work allows the caretaker to provide the care without significantly affecting the work;

(b) The caretaker provides child care in a residence; or

(c) The caretaker works for a provider of child care in a residence that is not certified under OAR 414-350-0000 and following.

(6) In the JOBS and REF programs, the cost of child care may be covered while the care is necessary to enable the client to participate in a case plan (see OAR 461-190-0211).

(7) In the ERDC, JOBS, JOBS Plus, REF, and TANF programs, the cost of dependent child care may be paid for (is covered) by the Department, only if all the following are true:

(a) The dependent child:

(A) In the ERDC program, is a member of the benefit group (see OAR 461-110-0750) and is in the care, control, and custody of an individual in the group.

(B) In the JOBS, JOBS Plus, REF, and TANF programs, lives with the filing group.

(b) The provider of child care is not in the filing group.

(c) The provider of child care is not the parent of the dependent.

(8) Coverage of the cost of dependent care is subject to the requirements in Chapter 461 of the Oregon Administrative Rules, including OAR 461-120-0510(4), 461-135-0400, 461-155-0150, 461-160-0193, 461-165-0180, and 461-190-0211.

Stat. Auth.: ORS 411.060, 411.070, 411.700, 411.816, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-160-0200

Unearned Income Exclusion for Child and Spousal Support; MAF and SAC

Clients in the MAF and SAC programs are entitled to unearned income exclusions from the following income:

(1) Cash medical support.

(2) Child support payments up to \$50 per dependent child or minor parent per financial group (see OAR 461-110-0530) per month, not to exceed \$200 per financial group per month.

(3) Spousal support payments up to \$50 made directly to the financial group for a member of the *financial group*.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 23-2008, f. & cert. ef. 10-1-08

461-160-0420

Shelter Cost; FS

(1) This rule explains how to calculate the client's shelter cost. The shelter cost is used to determine the shelter deduction (see OAR 461-160-0430). The shelter cost is the sum of the client's cost of housing plus an allowance for utilities, if the client incurs a utility cost. The shelter deduction is based on the shelter cost but is subject to a limitation described in OAR 461-160-0430.

(2) Cost of housing.

(a) The following comprise the cost of housing if they are incurred with respect to the client's current residence or the home described in section (5) of this rule:

(A) Regular, periodic charges for the shelter of the financial group (see OAR 461-110-0530), such as rent, mortgage payments, and condominium or association fees. Late fees charged because a mortgage or rent payment was made late are not deductible.

(B) Property taxes, state and local assessments, and property insurance on the structure.

(C) Costs for repairing a home damaged or destroyed by a natural disaster (such as a fire or flood), if such costs are not reimbursed.

(D) If the *need group* (see OAR 461-110-0630) is homeless and living in a vehicle — vehicle payments and collision and comprehensive insurance premiums for the vehicle.

(b) If housing costs are billed on a weekly or biweekly basis, the monthly cost is the weekly cost multiplied by 4.3 or the biweekly cost multiplied by 2.15.

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(c) The *financial group* has the following choices about housing costs:
(A) The group may choose to apply the cost in the month it is billed or becomes due.

(B) The group may choose to have periodic costs averaged.

(C) For expenses that are billed less often than monthly, the group may choose to have them averaged over the period they are intended to cover.

(3) Shared housing. If the filing group (see OAR 461-110-0370) shares housing costs with an individual in the dwelling who is not in the filing group, only the housing costs incurred by the filing group are included in the calculation. If the portion paid by a person outside the filing group cannot be ascertained, the cost is apportioned among the people contributing to the cost. The pro rata share of those not in the filing group is deducted from the total, and the balance is considered a housing cost of the filing group.

(4) Cost for utilities.

(a) A filing group has a cost for utilities if it incurs a cost for heating or cooling; cooking fuel; electricity; water and sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; service for a telephone, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes; or initial installation fees charged by a utility provider.

(b) If the group incurs no cost for utilities in either its current home or in the home described in section (5) of this rule, then the shelter cost is calculated without an allowance for utilities.

(c) If a homeless need group uses a vehicle for shelter, the cost of fuel for the vehicle is considered a utility cost.

(d) If a filing group incurs a cost for utilities, then the utility allowance is one of the following:

(A) Allowance with heating or cooling. A full standard utility allowance of \$379 is used if the household group (see OAR 461-110-0210) is billed for heating or cooling costs for its dwelling. Charges for any fuel and for electricity are considered heating costs if they are used for heating. A financial group who receives an energy assistance payment for the dwelling provided through the Low-Income Energy Assistance Act of 1981 is eligible for the utility allowance established by this paragraph (A).

(B) Allowance without heating or cooling.

(i) A limited standard utility allowance of \$262 is used if the household group is not billed for heating or cooling costs but is billed for at least two other costs enumerated in subsection (4)(a) of this rule.

(ii) An individual standard utility allowance of \$44 is used if the household is not billed for heating or cooling costs but is billed for only one of the costs enumerated in subsection (4)(a) of this rule other than the service cost for a telephone, including the related taxes or fees.

(iii) A telephone standard utility allowance of \$41 is used if the household is not billed for heating or cooling costs but is billed for telephone service, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes.

(5) Housing costs for a home not occupied by the household. Housing and utility costs with respect to a home not currently occupied by the household may be considered in calculating the shelter cost if:

(a) The home is temporarily unoccupied because of employment or training away from home, illness, or abandonment caused by casualty or natural disaster;

(b) The financial group intends to return to the home;

(c) No other, current occupant is claiming a deduction for shelter costs in the FS program; and

(d) The home is not leased during the household's absence.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816, 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1991(Temp), f. & cert. ef. 1-2-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 21-1998(Temp), f. 10-15-98 & cert. ef. 11-1-98 thru 12-31-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08

461-160-0430

Income Deductions; FS

(1) Deductions from income are subtracted from *countable income* (see OAR 461-140-0010) in the following order to determine *adjusted income* (see OAR 461-001-0000) for the Food Stamp program:

(a) An earned income deduction of 20 percent of countable earned income. The 20 percent deduction is not taken from the wages funded by grant diversions such as Work Supplementation wages.

(b) A standard deduction of \$144 per month for a benefit group (see OAR 461-110-0750) of one, two, or three persons. A standard deduction of \$147 for a benefit group of four persons. A standard deduction of \$172 for

a benefit group of five persons. A standard deduction of \$197 for a benefit group of six or more persons.

(c) A dependent care deduction for dependent care costs billed to a member of the financial group (see OAR 461-110-0530) and not paid for through any other program of the Department. For the cost to be deductible under this section, the care must be necessary to enable a member of the need group (see OAR 461-110-0630) to:

(A) Accept or continue employment;

(B) Meet the requirements of a case plan (see OAR 461-001-0020);

or

(C) Attend vocational or educational training. A student receiving educational income is entitled to a deduction only for costs not excluded from educational income by OAR 461-145-0150.

(d) The medical deduction for elderly clients and clients who have a disability (see OAR 461-001-0015) in the need group. The deduction is calculated by determining the total of their deductible medical costs (see OAR 461-160-0415) and subtracting \$35. The remainder is the medical deduction.

(e) A deduction for child support payments (including cash medical support) a member of the household makes under a legal obligation to a child not a member of the household group (see OAR 461-110-0210), including payments for the current month and for payments on arrearages. Child support is not deductible if collected by setoff through the Oregon Department of Revenue or by interception of a federal tax refund.

(f) A shelter deduction, calculated as follows:

(A) For FS clients required to pay room and board in a nonstandard living arrangement (see OAR 461-001-0000), the shelter deduction is:

(i) The cost of room and board, minus the payment standard for the benefit group; or

(ii) The actual room cost, if the client can prove that the room cost exceeds the cost described in subparagraph (i) of this paragraph.

(B) For all other clients, the shelter deduction is calculated as follows:

(i) The standard deduction and the deductions of earned income, dependent care, court-ordered child support, and medical expenses are subtracted from countable income. Fifty percent of the remainder is subtracted from the shelter cost calculated in accordance with OAR 461-160-0420.

(ii) The rounded balance is the deduction, except the deduction is limited if the filing group has no member who has a disability or is elderly (see OAR 461-001-0015). The limit is \$446.

(2) If the client cannot verify a medical or court-ordered child-support expense or cannot verify any other expense when asked to do so, the unverified expense is not used to calculate the deduction. If the client provides verification, the deduction is applied when calculating the next month's benefits. If verification is provided within the period authorized for processing applications (see OAR 461-115-0210), the benefits for the initial month (see OAR 461-001-0000) are recalculated using the deduction.

Stat. Auth.: ORS 411.816

Stat. Implemented: ORS 411.816 & 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 31-1996, f. & cert. ef. 9-23-96; AFS 41-1996(Temp), f. & cert. ef. 12-31-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 23-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 12-31-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 23-2000(Temp) Suspended by AFS 28-2000(Temp), f. 10-31-00, cert. ef. 11-1-00 thru 12-31-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 3-2001, f. 2-27-01, cert. ef. 3-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-160-0550

Income Deductions; Non-SSI OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) in the Community When There Are No Children in the Household Group

(1) For purposes of this rule:

(a) Ineligible person means an individual who is not eligible to receive either SSI or TANF benefits.

(b) Child means a natural or adopted child of an individual or a natural or adopted child of either member of a married couple.

(2) This rule is used to determine adjusted income (see OAR 461-001-0000) for all clients in the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) programs who:

(a) Live in the community;

(b) Are not assumed eligible (see OAR 461-135-0010);

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- (c) Do not receive Title XIX waived services; and
- (d) Have no children in the household group (see OAR 461-110-0210).
- (3) To determine adjusted income for clients described in section (2) of this rule, deductions from the countable (see OAR 461-001-0000) income of the financial group (see OAR 461-110-0530) are made in the following order:

(a) One standard deduction of \$20 from unearned income. This deduction may be taken from earned income if the client has less than \$20 in unearned income.

(b) One standard earned income deduction of:

- (A) \$65 for OSIP-AD, OSIP-OAA, OSIPM-AD, and OSIPM-OAA clients who are not blind; or
- (B) \$85 for OSIP-AB and OSIPM-AB clients who are blind.
- (C) An income deduction for documented impairment-related work expenses or blind work expenses.

(d) One half of the remaining earned income.

(e) Deductions under a plan for self-support.

(4) If the applicant has an ineligible spouse, he or she must first be financially eligible as an individual. Compare the adjusted income of the applicant (using the deductions in section (3) of this rule) to the one-person non-SSI OSIP and OSIPM adjusted income standard. If the applicant is over the one person standard, the applicant is financially ineligible. If the adjusted income of the applicant is less than the one person standard and the countable income of the ineligible spouse is:

(a) Greater than \$319, then combine the countable income of the applicant and the ineligible spouse, and take the deductions as described in section (3) of this rule and compare the resulting adjusted income to the two-person non-SSI OSIP and OSIPM adjusted income standard. If the resulting adjusted income is equal to or greater than the two-person non-SSI OSIP and OSIPM adjusted income standard, then the applicant is not financially eligible.

(b) Equal to or less than \$319, consider the income of the applicant only. As previously calculated in this section, the adjusted income of the applicant is less than the one-person non-SSI OSIP and OSIPM adjusted income standard and so the applicant is financially eligible as an individual.

Stat. Auth.: ORS 411.060, 411.070 & 414.042

Stats. Implemented: ORS 411.060, 411.070 & 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-160-0551

Income Deductions; Non-SSI OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) in the Community When There Are Children in the Household Group

(1) For purposes of this rule:

(a) *Ineligible* person means an individual who is not eligible to receive either SSI or TANF benefits.

(b) *Child* means a natural or adopted child of an individual or a natural or adopted child of either member of a married couple.

(2) This rule is used to determine adjusted income (see OAR 461-001-0000) for clients in the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) programs who:

- (a) Live in the community;
- (b) Are not assumed eligible (see OAR 461-135-0010);
- (c) Do not receive Title XIX waived services; and
- (d) Have children in the household group (see OAR 461-110-0210).

(3) To determine adjusted income for clients described in section (2) of this rule, deductions from the countable (see OAR 461-001-0000) income of the financial group (see OAR 461-110-0530) are made in the following order:

(a) An allocation as described below:

(A) When an adult is applying, the applicant must first be financially eligible as an individual. Compare the applicant's adjusted income (using the deductions in subsections (b) through (f) of this section) to the one-person non-SSI OSIP and OSIPM adjusted income standard. If the adjusted income of the applicant is greater than the one person standard, the applicant is financially ineligible. If the applicant is financially eligible as an individual, income is allocated (see paragraph (C) of this subsection) from an ineligible spouse of the client to each ineligible child of the couple. If the remaining countable income of the ineligible spouse is equal to or less than the difference between the SSI Standard for a couple and the SSI Standard for an individual, there is no deeming to the applicant. As calculated above, the individual is under the one-person non-SSI OSIP and OSIPM adjusted income standard.

(B) When a child is applying:

(i) Income from ineligible parents is first allocated to each ineligible child in the household.

(ii) Second, the remaining income from subparagraph (i) of this paragraph is reduced as provided in subsections (b) through (f) of this section.

(iii) Third, the remaining income is reduced by the non-SSI OSIP and OSIPM adjusted income standard of the:

(I) Couple if both parents live with the child; or

(II) Individual if only one ineligible parent lives with the child.

(iv) Fourth, the remainder is deemed equally to each child applicant in the household.

(v) The income deemed to the child is added to the other income of the child and deductions are taken as described in subsections (b) through (f) of this section to calculate the child's adjusted income.

(C) The maximum amount of each allocation under paragraphs (A) and (B) of this subsection is the difference between the couple and the individual SSI Standard. The difference is \$319 during 2008. The allocation for paragraphs (A) and (B) of this subsection is reduced by the other countable income of each ineligible child.

(b) One standard deduction of \$20 from unearned income. This deduction may be taken from earned income if the client has less than \$20 in unearned income.

(c) One standard earned income deduction of:

- (A) \$65 for clients in the OSIP-AD, OSIP-OAA, OSIPM-AD, and OSIPM-OAA programs; or
- (B) \$85 for clients in the OSIP-AB and OSIPM-AB programs.

(d) An income deduction for documented impairment-related work expenses or blind work expenses.

(e) One half of the remaining earned income.

(f) Deductions under a plan for self-support for clients in the OSIP-AB, OSIP-AD, OSIPM-AB, and OSIPM-AD programs.

Stat. Auth.: ORS 411.060, 411.070, 414.042

Stats. Implemented: ORS 411.060, 411.070, 414.042

Hist.: SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-160-0552

Income Deductions; Qualified Medicare Beneficiaries Programs

(1) This rule is used to determine adjusted income for the Qualified Medicare Beneficiaries programs: QMB-BAS and QMB-SMB (including SMF) programs.

(2) To determine adjusted income, deductions from the countable income of the *financial group* (see OAR 461-110-0530) are made in the following order:

(a) One standard deduction of \$20 from unearned income. This deduction may be taken from earned income if the client has less than \$20 in unearned income.

(b) One standard earned income deduction of:

- (A) \$65 for clients who are not blind; or
- (B) \$85 for clients who are blind.

(c) An income deduction for documented impairment-related work expenses or blind work expenses for clients under age 65.

(d) One half of the remaining earned income.

(e) Deductions under a plan for self-support for clients less than the age of 65.

Stat. Auth.: ORS 411.060, 411.070, 414.042

Stats. Implemented: ORS 411.060, 411.070, 414.042

Hist.: SSP 23-2008, f. & cert. ef. 10-1-08

461-160-0610

Client Liability for Clients in Long-term Care or Receiving Waived Services; OSIP (except OSIP-EPD), OSIPM (except OSIPM-EPD)

(1) Clients in the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) programs who live in or enter a long-term care setting or who receive Title XIX waived services must, in order to remain eligible, make the payment required by this rule, except as provided in sections (2) to (5) of this rule. These clients must apply their adjusted income to the cost of their care or service. This amount is their client liability. If their adjusted income exceeds their cost of care or service, they must pay the full cost of care but have no additional liability.

(2) Clients who receive SSI, or are deemed to receive SSI under section 1619(b) of the Social Security Act (42 U.S.C. § 1382h(b)), are eligible for OSIP and OSIPM without having to make a payment.

(3) The IC service payment of clients in the OSIP-IC and OSIPM-IC programs is reduced by the amount of their liability.

(4) The following clients, if they receive the services described in section (5) of this rule, are exempt from payments required by this rule:

(a) A disabled adult child under OAR 461-135-0830.

(b) A widow or widower under OAR 461-135-0820.

(c) A Pickle amendment client under OAR 461-135-0780.

(5) A client identified in section (4) of this rule is exempt from payments required by this rule if the client receives

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(a) Waivered services (see OAR 461-001-0030); or
(b) Mental health services and lives in a mental health residential treatment facility. For purposes of this rule, only the following types of treatment centers qualify as a mental health residential treatment facility:

- (A) A mental health adult foster home.
- (B) A mental health residential treatment home.
- (C) A mental health residential treatment facility.
- (D) A mental health secure residential treatment facility.

(6) A client residing in an acute care hospital is exempt from payments required by this rule while residing in the acute care hospital. If a service benefit was received prior to admission to the acute care hospital, payment must be made for that service.

Stat. Auth.: ORS 411.060, 411.070, 414.042

Stats. Implemented: ORS 411.060, 411.070, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 8-2005(Temp), f. & cert. ef. 7-1-05 thru 10-1-05; SSP 9-2005(Temp), f. & cert. ef. 7-6-05 thru 10-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 23-2008, f. & cert. ef. 10-1-08

461-165-0060

Minimum Benefit Amount; FS, REF, TANF

(1) In the FS program:

(a) A *benefit group* (see OAR 461-110-0750) is not eligible for benefits in the initial month (see OAR 461-001-0000) if the allotment is less than eight percent of the Thrifty Food Plan (TFP) as determined annually by Food and Nutrition Services (FNS).

(b) In an ongoing month (see OAR 461-001-0000), benefits are issued as follows:

(A) An eligible one- or two-person benefit group receives a minimum monthly allotment of eight percent of the TFP as determined annually by FNS.

(B) An eligible benefit group of three or more persons receives the calculated benefit except that a group whose calculated benefit is \$1, \$3, or \$5 receives instead an allotment of \$2, \$4, or \$6 respectively. A group that is categorically eligible (see OAR 461-135-0505) may be eligible for zero benefits (\$0) for the certification period (see OAR 461-001-0000).

(2) Except as provided in section (3) of this rule, in the REF and TANF programs, benefits are not issued if the monthly benefit is less than \$10. Individuals who do not receive a cash payment because the monthly benefit is less than \$10 may be eligible for medical benefits.

(3) The \$10 requirement in section (2) of this rule does not apply to:

(a) Special payments, such as one-time special needs, emergency assistance, supplements, or a benefit reduced from \$10 or more to under \$10 due to the recovery of an overpayment.

(b) Dual payee payments made in money management cases if the monthly benefit amount is \$10 or more.

(c) Wage supplements issued to JOBS Plus participants.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 19-2004(Temp), f. 7-30-04, cert. ef. 8-1-04 thru 9-30-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 23-2008, f. & cert. ef. 10-1-08

461-170-0015

Changes that Must Be Reported; ERDC

ERDC clients must report:

(1) Changes as required by the rules applicable to the Periodic Review and APR reporting systems.

(2) The following changes within 10 days of occurring. If these changes are reported for another program, they are considered reported for ERDC:

(a) Changes in members of the *filing group* (see OAR 461-110-0350), and any resulting changes in income.

(b) Changes of address.

(c) Changes in *source of income*, including the loss of a job, and related changes in the amount of income.

(d) Changes in the rate of pay, except that clients are not required to report a change due to the annual adjustment in the Oregon minimum wage.

(e) Changes in child care providers.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 23-2008, f. & cert. ef. 10-1-08

461-170-0020

Changes That Must be Reported; FS, MAA, MAF, REF, REFM, SAC, SFPSS, TANF

(1) Clients in the FS, MAA, MAF, REF, SAC, SFPSS, and TANF programs are required to report all applicable changes described in this rule.

(2) Clients must report each of the following changes within ten days of occurrence, unless the client is required to report the change by section (7) or (8) of this rule or is exempted from the reporting requirement by section (9) of this rule:

(a) A change in employment, including getting, changing, quitting, or losing a job.

(b) A change in source of income.

(c) A change in earned income of more than \$100 a month, except a change due to an annual adjustment in the Oregon minimum wage.

(d) A change in unearned income of more than \$50, except a change in a public assistance grant.

(3) Clients must report each of the following changes within ten days of occurrence, unless the client is required to report the change by section (8) of this rule or is exempted from the reporting requirement by section (9) of this rule:

(a) The acquisition or change in ownership of non-excluded vehicles.

(b) The sale or receipt of resources that cause total resources to exceed program resource limits.

(4) In the MAA, MAF, REF, REFM, SAC, SFPSS, and TANF programs, clients must report a member of the filing group becoming pregnant and when the pregnancy ends.

(a) The report of pregnancy must be received by the Department no later than the tenth day after the client becomes aware of the pregnancy.

(b) The report of pregnancy ending must be received by the Department no later than the tenth day after the client becomes aware of the pregnancy ending.

(5) In the MAA, MAF, REF, SAC, SFPSS, and TANF programs, clients must report each of the following changes within ten days of occurrence:

(a) A change in the members of the household group (see OAR 461-110-0210) and any resulting change in income.

(b) A change in residence.

(c) A change in who pays the shelter costs if the costs were or will be paid by a non-custodial parent.

(6) In the FS program, clients must report each of the following changes within ten days of occurrence, unless the client is required to report the change by section (8) of this rule or is exempted from the reporting requirement by section (9) of this rule:

(a) A change in residence and the shelter costs in the new residence.

(b) A change in members of the filing group (see OAR 461-110-0370) and any resulting change in income.

(c) A change in the legal obligation to pay child support.

(7) Clients in the monthly reporting system (MRS) must report changes in income as required by the rules applicable to the Monthly Change Report.

(8) In the FS program, clients in the simplified reporting system (SRS) must report:

(a) By the tenth day of the month following the month of occurrence, when any of the following paragraphs applies:

(A) Monthly income exceeds the countable income limit in the FS program.

(B) The mailing address changes.

(b) On the interim change report, all other changes not covered by subsection (8)(a) of this rule.

(9) In the FS program, clients participating in the transitional benefit alternative (TBA) are not required to report changes.

(10) In the REFM program, clients must report each of the following changes within ten days of occurrence:

(a) A change in the members of the household group.

(b) A change in residence.

Stat. Auth.: ORS 411.060, 411.816, 412.014, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.105, 411.816, 412.014, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 24-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

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461-170-0100

Criteria for Using MRS

(1) A *filing group* is not subject to the requirements of the monthly reporting system (MRS) unless it is required to participate by section (2) or (4) of this rule.

(2) In the MAA, REF, and TANF programs, the following filing groups must participate in the MRS, unless they are specifically excluded by section (5) of this rule:

(a) *Filing groups* that are in the MRS for another program.

(b) Filing groups that have countable earned or unearned income that is not the same every month and cannot be anticipated, averaged, converted, or annualized.

(3) In the FS program, the filing group can only participate in the MRS if it is in the MRS for another program.

(4) In the GA, GAM, OSIPM, and QMB programs, a filing group not specifically excluded by section (5) of this rule must participate in the MRS if it has varying earned or unearned income that cannot be averaged, converted or annualized.

(5) The following filing groups are excluded from participating in the MRS:

(a) FS and TANF filing groups that include a member working under a JOBS Plus agreement.

(b) Filing groups in the EA, ERDC, EXT, MAF, REFM, SAC, and TA-DVS programs.

(c) FS filing groups in which any of the following is true:

(A) At least one member is a migrant or seasonal farm worker.

(B) The members are homeless.

(C) Each adult member is elderly or disabled, and no financial group member has earned income.

(D) At least one member is receiving ERDC.

(E) The group resides on an Indian Reservation.

(d) OHP filing groups for their OHP benefits. They may be in the MRS for their other program benefits.

(e) In the GA, GAM, OSIPM, and QMB programs, clients receiving or deemed to be receiving SSI.

Stat. Auth.: ORS 411.060, 411.816 & 418.100

Stats. Implemented: ORS 411.060, 411.816 & 418.100

Hist.: AFS 70-1989, f. 11-30-89, cert. ef. 12-1-89; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 23-2008, f. & cert. ef. 10-1-08

461-170-0101

Simplified Reporting System (SRS); FS

(1)(1) OAR 461-170-0101 to 461-170-0104 establish and explain the simplified reporting system (SRS) used in the Food Stamp program.

(2) Clients certified to receive food stamps for six months or longer may participate in SRS.

(3) A *filing group* may not participate in SRS and is removed from SRS if the group:

(a) Includes an individual who is in the monthly reporting system for another program; or

(b) Contains an individual who is receiving benefits from the ERDC program.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 23-2008, f. & cert. ef. 10-1-08

461-170-0150

Averaging with Periodic Review (APR)

(1) The Department uses APR for all ERDC clients.

(2) The length of the APR period is as follows:

(a) When the need for child care occurs within two consecutive calendar months or less, the length of the APR period will be as follows:

(A) If the child care need occurs within one calendar month, the APR period will consist of that month only.

(B) If the child care need occurs within two consecutive calendar months, the APR period will consist of those two months only.

(b) When income can be reasonably anticipated for four months or more, the APR period can be four, five or six months.

(c) For all other cases, the APR period is three months.

(3) The Department may shorten the APR period or re-average future income over the remaining months of the period when clients report income changes between periodic reviews that, after the application of OAR 461-150-0049, would cause a substantial change in the copay.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 10-1993, f. & cert. ef. 6-1-93; AFS 13-1993(Temp), f. & cert. ef. 7-1-93; AFS 21-1993, f. & cert. ef. 10-12-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 23-2008, f. & cert. ef. 10-1-08

461-175-0340

Notice Situation; Voluntary Action

(1) Unless the Department chooses to proceed as described in section (2) of this rule:

(a) For all programs except the FS program, if the primary person (see OAR 461-001-0000), another adult member of the filing group, or the authorized representative:

(A) Makes an oral request to end or reduce benefits, a timely continuing benefit decision notice (see OAR 461-001-0000) is sent.

(B) Makes a signed, written request to withdraw, end, or reduce benefits, a basic decision notice (see OAR 461-001-0000) is sent.

(C) Makes an oral request to withdraw an application for benefits, a basic decision notice is sent.

(b) In the FS program, when the filing group (see OAR 461-110-0370) states it wishes to withdraw its benefits request, or states it wishes to reduce or no longer receive benefits:

(A) If the request is made by phone to end or reduce benefits, a timely continuing benefit decision notice is sent.

(B) If the request is made in person to reduce benefits, a basic decision notice is sent.

(C) If the request to reduce benefits is signed by the primary person (see OAR 461-001-0000), another adult member of the filing group, or the authorized representative, a basic decision notice is sent.

(D) If the request to end benefits is signed by the primary person, another adult member of the filing group, or the authorized representative in the presence of a worker, no notice is required. If it is not signed in the presence of a worker, a basic decision notice is sent.

(E) If the client withdraws a signed request for benefits, a basic decision notice is sent.

(2) The Department may reduce or terminate benefits to an individual when the individual completes a voluntary agreement on a Department form used for this purpose. The Department provides the individual with a copy of the completed agreement and no other notice is required. The individual may request a hearing to set aside this agreement on the grounds of fraud, duress, or reliance on misinformation provided by the Department, subject to the time limits for hearing requests in OAR 461-025-0310.

(3) In the FS program, a timely continuing benefit decision notice is sent if the filing group returns a signed Change Report form with information that requires a reduction or closure of benefits.

Stat. Auth.: ORS 411.060, 411.816, 412.014, 412.049, 414.042

Stats. Implemented: ORS 183.417, 411.060, 411.816, 412.014, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 16-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-180-0070

Effective Dates; Initial Month Cash Benefits

(1) In the EA program, the effective date for opening the case is the day benefits are issued to the benefit group (see OAR 461-110-0750). For *benefit groups* whose only eligible child is an unborn, the effective date cannot be earlier than the first day of the calendar month preceding the month in which the due date falls.

(2) In the ERDC-BAS program, the effective date for starting benefits is one of the following:

(a) The first day of the month in which the request for benefits is made, as long as:

(A) All eligibility requirements are met in that month; and

(B) Verification is provided within the application processing timeframes.

(b) If all eligibility requirements are not met in the month of request, the effective date is the first day of the month in which they are met, if verification is provided within the application processing timeframes.

(c) For benefit groups that received TANF within the 30 days before applying for ERDC, the effective date is the first of the month following closure of their TANF benefits.

(3) In the GA program, the effective date for the initial month of cash benefits is whichever of the following occurs first:

(a) The day all eligibility requirements are met and verified.

(b) The 45th day from the date the client requests benefits, if all eligibility requirements were met, but the Department did not receive documentation until after the 45th day.

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(4) In the OSIP program, the effective date for the initial month of cash benefits is whichever of the following occurs first:

(a) The date the client requests benefits, if he or she was eligible as of that date.

(b) The date all eligibility requirements are met.

(5) In the REF and TANF programs, the effective date for the initial month of cash benefits is as follows:

(a) For a client in the Pre-TANF program, it is the later of the following:

(A) The day the Pre-TANF program ends.

(B) The 30th day following the date the client requests benefits, if the Department does not receive required verification until after the 30th day.

(b) For a client not in the Pre-TANF program (see OAR 461-135-0475), it is the day the client meets and verifies all eligibility requirements.

(c) In the TANF program, if the only eligible child is an unborn, it may not be earlier than the first day of the calendar month preceding the month in which the due date falls.

(d) For a provider-direct child care payment (see OAR 461-165-0190), it is the first of the month in which TANF benefits begin.

(e) For a JOBS support service payment, it is the date the client meets all eligibility requirements in OAR 461-190-0211.

(6) For TANF recipients moving to the SFPSS program, the effective date for the initial month of SFPSS benefits is:

(a) Except as provided in subsection (b) of this section, the first of the month following the day all eligibility requirements are met and verified.

(b) If the day all eligibility requirements are met and verified falls after the compute deadline, the initial month of SFPSS benefits will be the first of the month following the month after compute deadline. For purposes of this rule, the "compute deadline" means the Department computer system monthly deadline after which changes will not take effect until the month following the first of the next month.

Stat. Auth.: ORS 411.060, 411.070, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; CWP 37-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-190-0199

Parents as Scholars

(1) Parents as Scholars (PAS) is a JOBS program component that assists TANF parents who are or will be undergraduates to begin or continue their education at a two- or four-year educational institution.

(2) The following definitions apply to PAS:

(a) "Educational institution" means any post-secondary educational institution approved or accredited by the Northwest Commission on Colleges and Universities, by its regional equivalent, or by the appropriate official, department, or agency of the state or nation in which the institution is located and that is:

- (A) A four-year college or university;
- (B) A junior college or community college; or
- (C) A technical, professional or career school.

(b) "Participant" refers to a participant in the PAS component of the JOBS program.

(c) "PAS" means the Parents as Scholars component of the JOBS program.

(3) The number of participants in PAS in a calendar year is limited as follows:

(a) The number of participants in PAS in a calendar year may not exceed one percent of the number of households receiving TANF on January 1 of that calendar year.

(b) If one percent of the number of households receiving TANF on January 1 of the current calendar year is less than one percent of the number of households receiving TANF on January 1 of the previous calendar year, the Department will not fill PAS slots vacated on or after January 1 of the current calendar year until the total number of slots is equal to one percent of the households receiving TANF for the current calendar year.

(4) A PAS participant receives TANF cash assistance as well as necessary support services provided through the JOBS program. JOBS support services:

(a) May not be used to pay for the cost of tuition and fees associated with enrollment by a participant at an educational institution.

(b) Notwithstanding OAR 461-190-0211, may be used to pay for books and supplies associated with enrollment by a participant at an educational institution subject to the following provisions:

(A) The books and supplies are required for completion of the participant's coursework at an educational institution;

(B) There is no other funding available to the PAS participant for books and supplies; and

(C) No more than \$100 per academic term or semester may be paid per PAS participant for books and supplies.

(5) Applying for PAS. A parent who is applying for or receiving TANF may apply for PAS by completing and signing the PAS application and submitting it to the Department. The application and other documentation required by this rule must be submitted to Department of Human Services JOBS Unit (PAS), 2nd Floor, 500 Summer Street NE E48, Salem, Oregon 97301.

(6) Transition of DCI Participants to PAS.

(a) Applicants for the Degree Completion Initiative (DCI) who were approved for DCI pursuant to OAR 461-190-0195 prior to October 1, 2008, and remain in DCI as of September 30, 2008, will be considered approved for:

(A) PAS; or

(B) The vocational training component of the JOBS program, if the Central Office JOBS unit determines that vocational training is appropriate.

(b) Applicants for DCI who were conditionally approved for DCI pursuant to OAR 461-190-0195 prior to October 1, 2008, and remain conditionally approved for DCI on September 30, 2008, will be considered approved for PAS if the applicant submits verification of full-time enrollment in school for the current term or semester within the 60-day time period given to each individual applicant conditionally approved for DCI.

(c) A DCI applicant on the DCI wait list on September 30, 2008, will be considered approved for PAS if the applicant:

(A) Has submitted verification of full-time acceptance into or verification of full-time enrollment at an educational institution for the current or subsequent term or semester; or

(B) Submits verification of full-time acceptance into or verification of full-time enrollment at an educational institution for the current or subsequent term or semester no later than December 31, 2008.

(7) PAS Selection Process: Wait List.

(a) PAS applications received from PAS applicants not covered under section (6) of this rule will be processed in the order in which the Department receives the applications.

(b) If the maximum number of PAS slots for a calendar year has not been filled, the Department will notify an applicant when he or she has been approved.

(c) When the maximum number of PAS slots for a calendar year has been filled and there is a wait list, the Department will notify an applicant when he or she has been added to the wait list.

(d) Once each year, the Department will contact PAS applicants on the wait list to determine if the PAS applicant's name should be removed from the wait list.

(e) When the maximum number of PAS slots for a calendar year has been filled and there is a wait list and a PAS slot becomes available, the Department will notify the next applicant on the wait list that an opening has become available.

(f) The Department will inform an applicant for PAS who does not qualify or no longer qualifies for placement on the wait list because the applicant becomes ineligible for TANF or no longer meets the requirements of this rule.

(8) Selection Requirements.

(a) A PAS applicant must meet the financial and nonfinancial eligibility requirements for TANF.

(b) A PAS applicant who is not applying for or receiving TANF at the time of selection may not participate in PAS or remain on the wait list.

(c) A PAS applicant must include documentation that the PAS applicant is an undergraduate who has been accepted for full-time attendance into or is enrolled full-time at an educational institution.

(d) A PAS applicant must demonstrate as part of the PAS application that completion of the educational program is likely to result in employment that provides the wages and benefits necessary for the applicant to support the applicant's family without TANF.

(9) Requirements of Participants: Limitations.

(a) A participant must provide documentation to the Department quarterly, or following completion of each academic term at the educational institution, that the participant is making satisfactory academic progress, as defined by the educational institution, toward a degree.

(b) A participant must attend classes full-time as defined by the educational institution, unless there is good cause (see OAR 461-130-0327) to limit attendance to less than full-time.

(c) Unless there is good cause for not attending year round, a participant must either:

(A) Attend classes year round, including during the summer if classes are offered by the educational institution; or

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(B) If not attending classes year round, participate in work experience related to the field of study of the participant when not attending classes. If a work experience related to the participant's field of study is not available, participate in another appropriate work experience.

(d) During the first twelve months of participation in PAS, a participant must record attendance and homework time weekly and must provide this information to the Department no less frequently than monthly.

(e) Except as provided in subsection (f) of this section, a participant must remain eligible for TANF.

(f) If a participant becomes temporarily ineligible for TANF during a period of four or fewer months due to income from a paid work experience, the applicant may retain their PAS slot when school resumes if:

(A) The participant regains TANF eligibility; and

(B) PAS is still an appropriate activity for the participant.

(10) Ending PAS. PAS shall be ended for a PAS participant when:

(a) The PAS participant completes his or her degree program;

(b) Except as provided in subsection (9)(f) of this rule, the PAS participant becomes ineligible for TANF; or

(c) All of the following are true:

(A) The PAS participant fails to meet one or more of the requirements of subsections (9)(a) through (9)(d) of this rule;

(B) Attempts to re-engage the PAS participant pursuant to OAR 461-190-0231 are unsuccessful; and

(C) There is a determination that the PAS participant does not have good cause (see OAR 461-130-0327) for failure to meet one or more requirements of subsections (9)(a) through (9)(d) of this rule.

Stat. Auth.: ORS 411.060, 412.016, 412.049 & 412.124

Stats. Implemented: ORS 411.060, 412.016, 412.017, 412.049 & 412.124

Hist.: SSP 20-2008(Temp), f. & cert. ef. 9-5-08 thru 3-4-09; SSP 23-2008, f. & cert. ef. 10-1-08

461-190-0211

Standards for Support Service Payments

(1) The Department helps an individual comply with the individual's case plan (see OAR 461-001-0025) by providing payments for child care, housing, transportation, and other needs to make participation in required activities (see OAR 461-001-0025) successful. These payments are provided for costs directly related to participation in activities, for costs necessary to obtain and retain a job, and for enhancing wages and benefits. In approving JOBS support service payments, the Department must consider lower-cost alternatives. It is not the intent of the Department or of this rule to supplant Department funding with other funding that is available in the community. It is the Department's expectation that case managers and clients will work collaboratively to seek resources that are reasonably available to the client in order to participate in activities.

(2) Support service payments must be authorized in advance and are subject to the limitations of this rule. The following standards apply to support service payments.

(3) Subject to the limitations of state funding, payments for support services (see OAR 461-001-0025) will be made available to an individual if all of the following requirements are met:

(a) The individual is one of the following:

(A) A TANF applicant or recipient.

(B) A client in the Pre-TANF, Post-TANF, or SFPSS programs.

(C) A minor parent (see OAR 461-001-0000) who has returned to the minor's parent's home in the last 40 days, if the move caused the client to become ineligible for TANF.

(D) A TANF client participating in diagnosis, counseling, or treatment programs for substance abuse or mental health.

(E) A non-citizen who is ineligible for TANF, who is legally able to work in the United States, and who has a child receiving TANF.

(F) An individual disqualified from the TANF program for failure to comply with the child-support related requirements of OAR 461-120-0340 and 461-120-0345.

(G) An individual eligible for transition benefits and services under OAR 461-190-0241.

(H) An individual currently receiving TA-DVS benefits.

(I) A non-custodial parent of a child receiving TANF benefits, if both are residents of Oregon.

(J) A recipient of supplemental security income (SSI) who is a volunteer (see OAR 461-130-0310) in an employment program.

(K) A caretaker relative (see OAR 461-001-0000) who is non-needy and is a volunteer in an employment program.

(b) The individual has agreed to participate in a JOBS activity or other approved activities as specified in the individual's case plan.

(4) For an individual who is eligible for a support service under paragraphs (3)(a)(J) and (3)(a)(K) of this rule, the Department will consider that individual's income and resources towards the need.

(5) Denials and Reductions. The Department may reduce, close, or deny in whole or in part an individual's request for a support service payment in the following circumstances:

(a) If the individual is disqualified for failing to comply with a case plan, unless the payment in question is necessary for the client to comply with his or her case plan.

(b) If the purpose for the payment is not related to the individual's case plan.

(c) If the client disagrees with a support service payment offered or made by the Department as outlined in the client's case plan.

(6) Required Verification.

(a) The Department may require the individual to provide verification of a need for the support service prior to approval and issuance of payment if verification is reasonably available.

(b) The Department may require the individual to provide verification of costs associated with a support service if verification is reasonably available.

(7) Child Care. Payments for child care are authorized, as limited by OAR 461-160-0040, if necessary to enable the individual to participate in JOBS program activities or other approved activities specified in the individual's case plan. If authorized, payment for child care will be made for:

(a) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by OAR 461-155-0150, except that the cost of child care may be paid up to the monthly maximum when children are in care less than 158 hours per month and:

(A) Appropriate care is not accessible to the individual at the hourly rate; or

(B) The individual is a teen parent using on-site care while attending education activities.

(b) The minimum hours necessary, including meal and commute time, for the individual to participate in JOBS or other approved activities or to obtain and maintain employment.

(8) Child care payments may be provided when individuals are not participating in activities of the JOBS program or other approved activities if necessary for them to retain their provider. Only the minimum amount necessary to maintain the child care slot with the provider may be covered as established in OAR 461-155-0150. Not more than 30 days between scheduled JOBS or other approved activities may be covered.

(9) Housing and Utilities. In addition to payments for basic living expenses provided in OAR 461-135-0475, payments may be provided to secure or maintain housing and utilities in the following situations:

(a) To prevent an eviction or utility shut-off, secure housing in order to find or maintain employment, or participate in activities listed in the individual's case plan. Payment is available when all the following are true:

(A) The individual cannot make a shelter or utility payment due to lack of assets.

(B) The lack of assets did not result from a JOBS or Child Support disqualification, a reduction due to an IPV recovery, overpayment recovery (other than administrative error), or failure by the individual to pay shelter or utility expenses when funds were reasonably available.

(C) The individual's case plan addresses how subsequent shelter or utility payments will be made.

(b) The shelter need results from domestic violence (see OAR 461-001-0000) and all the following are true:

(A) The individual is not eligible for the TA-DVS program.

(B) The individual will be able to pay all subsequent shelter costs, either through the individual's own resources or through other resources available in the community.

(C) The individual's case plan addresses how subsequent shelter costs will be paid.

(c) For clients who are in the Pre-TANF program or are applying for a payment under section (6) of this rule, the Department will make payments if the client meets the eligibility criteria in section (9) of this rule. A client who receives a TANF grant is expected to meet the housing and utility expenses out of the money received each month in the TANF grant. Therefore, for clients who receive a TANF grant, the Department may make payments on a case-by-case basis as appropriate if the client otherwise meets the support service payment eligibility criteria of this section.

(10) Transportation. The Department will provide payments for transportation costs incurred in travel to and from JOBS or other approved activities. Payment is made only for the cost of public transportation or the cost of vehicle insurance, repairs, and fuel for a personally owned vehicle. The Department will not authorize payment for repair of a vehicle owned by an individual who is not in the TANF filing group (see OAR 461-110-0330). Payments are subject to the following considerations:

(a) Payments for public transportation are given priority over payments for a privately owned vehicle.

(b) Payment for a privately owned vehicle is provided if the client or driver has a valid license and either of the following is true:

(A) No public transportation is available or the client is unable to use public transportation because of a verifiable medical condition or disability for which no accommodation is available.

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(B) Public transportation is available but is more costly than the cost of car repair or fuel.

(11) Other Payments. The Department will provide payments for other items that are directly related to participation in JOBS or other approved activities. Payments under this section may be authorized for:

(a) Reasonable accommodation of a client's disability (see OAR 461-001-0000).

(b) Costs necessary in obtaining and retaining a job or enhancing wages and benefits, such as:

(A) Clothing and grooming for participation in JOBS activities or job interviews.

(B) Moving expenses necessary to accept employment elsewhere.

(C) Books and supplies for education needs, subject to the limitations provided in OAR 461-190-0199.

(D) Tools, bonding, and licensing required to accept or retain employment.

(c) Tuition for vocational training (see OAR 461-001-0025) only:

(A) After the client has been approved for vocational training;

(B) When no other funding is available;

(C) To the extent that Department funding designated for this purpose is available; and

(D) When the training is necessary for a job leading to a higher wage and high demand occupation, as defined by the Workforce Investment Act (WIA).

(12) Students Receiving Financial Aid. Authorization for payments for students in vocational training who receive financial aid is subject to the following conditions:

(a) A student whose financial aid consists solely of student loans is not required to use any of that financial aid for support services.

(b) Support service payments are not authorized for services specifically covered by federal or state financial aid other than student loans.

(c) Students whose financial aid consists of a combination of loans and grants may be required to pay for support services from any grant money remaining after payment of tuition, fees solely related to the institution where the individual attends, books, and supplies (applying first the loan and then any grants) if the financial aid award letter specifically permits this use of funds.

Stat. Auth.: ORS 411.060, 418.100

Stats. Implemented: ORS 411.060, 418.100, 418.155, 2007 OL 861

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 11-2005(Temp), f. & cert. ef. 9-1-05 thru 12-31-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

461-190-0231

Re-engagement; JOBS, Pre-TANF, REF, SFPSS, TA-DVS

In the JOBS, Pre-TANF, REF, SFPSS, and TA-DVS programs:

(1) When aspects of the case plan have not been met or are in dispute, the re-engagement process provides an opportunity for the client and the Department to:

(a) Review and re-evaluate the case plan and other information gathered related to the client's strengths and barriers;

(b) Identify participation expectations, concerns related to participation, and completion of activities in the case plan;

(c) Consider whether the case plan is still appropriate;

(d) Develop options that support full participation; and

(e) Revise the case plan if appropriate.

(2) The re-engagement process is intended to assist the Department in identifying whether the client is unable to fully participate or whether the client is or has been willfully non-complaint.

(a) In the JOBS, Pre-TANF, REF, and SFPSS programs, if screenings for physical or mental health needs, substance abuse, domestic violence (see OAR 461-001-0000), or learning needs have not been completed, the re-engagement process requires an additional opportunity to initiate those screenings for potential barriers to participation not previously identified.

(b) Circumstances that require a determination of whether good cause (see OAR 461-130-0327) exists include disagreements about the case plan, irregular attendance at activities, missed appointments, failure to participate in a component of the case plan, and (in the JOBS program) refusal to accept or maintain employment.

(c) In the TA-DVS program, there are no participation requirements. The re-engagement process is intended to provide an opportunity to address problems with the case plan (see OAR 461-135-1230) and an opportunity to modify the case plan.

(3) In the JOBS program, the re-engagement process must include an assessment of the risk of harm posed to the children in the filing group by the reduction in aid payments and taking steps to ameliorate the risk.

(4) The client, the Department, or the Department's contractor may initiate the re-engagement process. The re-engagement process is not a required activity. The Department may not disqualify clients based on their failure to participate in the re-engagement process.

(5) The client or Department may invite partner agencies, Department contractors, persons currently working with the client, or other individuals who have information relevant to the re-engagement process to any appointments or meetings scheduled as part of the process.

(6) The re-engagement process ends when any of the following subsections applies:

(a) The Department and the client agree to a modified case plan.

(b) Efforts to re-engage are unsuccessful.

(c) In the JOBS, Pre-TANF, and REF programs:

(A) The Department has determined the client has met federally required participation rates (see OAR 461-001-0025);

(B) The client clearly indicates an intent not to participate in the re-engagement process;

(C) The client is willfully non-compliant and has the ability to be fully engaged;

(D) The client has no barriers or refuses to take appropriate steps to address identified barriers to participation in the program; or

(E) A decision is made by the Department that a client did not have good cause for not complying with a requirement of the JOBS program, and the client is able but unwilling to address the issue through activities that address barriers or through case plan modifications.

(d) In the SFPSS program, after a review team consisting of SFPSS program staff including the case manager, disability analyst, and appropriate medical professional determine the client does not have good cause for non-cooperation and no accommodations or modifications can be made to support the client being re-engaged.

(7) The re-engagement process must end unsuccessfully before the Department begins the process of disqualifying a client for a failure to comply with a requirement of the JOBS program.

(8) In the SFPSS program, when the re-engagement process ends unsuccessfully, a client removed from the program is returned to the TANF program.

(9) For a participant in the Parents as Scholars (PAS) component of the JOBS program, when re-engagement ends unsuccessfully, PAS is ended pursuant to OAR 461-190-0199.

Stat. Auth.: ORS 411.060, 412.009, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.117, 412.009, 412.014, 412.049

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 18-1998, f. & cert. ef. 10-2-98; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08

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

Rule Caption: October 08 technical changes to the January 1, 2008-December 31, 2009 Health Services Commission's Prioritized List of Health Services.

Adm. Order No.: DMAP 31-2008(Temp)

Filed with Sec. of State: 10-1-2008

Certified to be Effective: 10-1-08 thru 3-29-09

Notice Publication Date:

Rules Amended: 410-141-0520

Subject: The Oregon Health Plan Program administrative rules governing Division of Medical Assistance Programs' (DMAP) payments for services provided to clients. DMAP temporarily amended 410-141-0520, referencing the January 1, 2008-December 31, 2009 Oregon Health Services Commission's Prioritized List of Health Services that reflect interim modifications and technical changes made, subject to Centers for Medicare and Medicaid Services (CMS) approval, and effective October 1, 2008. The October 1, 2008 interim modifications and technical changes include application of 2008 national code to the HSC lines and HSC guideline refinements.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0520

Prioritized List of Health Services

(1) The Prioritized List of Health Services (Prioritized List) is the Oregon Health Services Commission's (HSC) listing of physical health services with "expanded definitions" of Preventive Services and the HSC's practice guidelines, as presented to the Oregon Legislative Assembly. The Prioritized List is generated and maintained by HSC. The HSC maintains

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the most current list on the HSC website: www.oregon.gov/DHS/healthplan/priorlist/main, or, for a hardcopy contact the Office of Oregon Health Policy and Research. Effective January 1, 2008, this rule incorporates by reference the CMS approved Biennial January 1, 2008–December 31, 2009 Prioritized List, including technical revisions and interim modifications effective April 1, 2008 and October 1, 2008, expanded definitions, and practice guidelines that are available on the HSC website.

(2) Certain Mental Health services are only covered for payment when provided by a Mental Health Organization (MHO), Community Mental Health Program (CMHP) or authorized Fully Capitated Health Plan (FCHP) or Physician Care Organization (PCO). These codes are identified on their own Mental Health (MH) section of the appropriate lines on the Prioritized List of Health Services.

(3) Chemical dependency (CD) services are covered for eligible OHP clients when provided by an FCHP, PCO, or by a provider who has a letter of approval from the Office of Mental Health and Addiction Services and approval to bill Medicaid for CD services.

(4) Effective October 1, 2008, the January 1, 2008–December 31, 2009 Prioritized List, with technical revisions and interim modifications effective April 1, 2008 and October 1, 2008, is in effect and condition treatment pairs through line 503 are funded.

Stat. Auth.: SB 163 (2007), 2007 OL Ch. 798, ORS 409.010 & 409.050
Stats. Implemented: ORS 414.065, 414.727, 414.050, 414.010 & 192.518 - 192.526
Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 33-1998, f. & cert. ef. 9-1-98; OMAP 40-1998(Temp), f. & cert. ef. 10-1-98 thru 3-1-99; OMAP 48-1998(Temp), f. & cert. ef. 12-1-98 thru 5-1-99; OMAP 21-1999, f. & cert. ef. 4-1-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 9-2000(Temp), f. & cert. ef. 4-27-00 thru 9-26-00; OMAP 13-2000, f. & cert. ef. 9-12-00; OMAP 14-2000(Temp), f. 9-15-00, cert. ef. 10-1-00 thru 3-30-01; OMAP 40-2000, f. 11-17-00, cert. ef. 11-20-00; OMAP 22-2001(Temp), f. 3-30-01, cert. ef. 4-1-01 thru 9-1-01; OMAP 28-2001, f. & cert. ef. 8-10-01; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 18-2002, f. 4-15-02, cert. ef. 5-1-02; OMAP 64-2002, f. & cert. ef. f. & cert. ef. 10-2-02; OMAP 65-2002(Temp), f. & cert. ef. 10-2-02 thru 3-15-0; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 30-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 79-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04; OMAP 81-2003(Temp), f. & cert. ef. 10-23-03 thru 3-15-04; OMAP 94-2003, f. 12-31-03 cert. ef. 1-1-04; OMAP 17-2004(Temp), f. 3-15-04 cert. ef. 4-1-04 thru 9-15-04; OMAP 28-2004, f. 4-22-04 cert. ef. 5-1-04; OMAP 48-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 51-2004, f. 9-9-04, cert. ef. 10-1-04; OMAP 68-2004(Temp), f. 9-14-04, cert. ef. 10-1-04 thru 3-15-05; OMAP 83-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 54-2005(Temp), f. & cert. ef. 10-14-05 thru 4-1-06; OMAP 62-2005, f. 11-29-05, cert. ef. 12-1-05; OMAP 71-2005, f. 12-21-05, cert. ef. 1-1-06; OMAP 6-2006, f. 3-22-06, cert. ef. 4-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 14-2007(Temp), f. & cert. ef. 10-1-07 thru 3-28-08; DMAP 28-2007(Temp), f. & cert. ef. 12-20-07 thru 3-28-08; DMAP 8-2008, f. & cert. ef. 3-27-08; DMAP 10-2008(Temp), f. & cert. ef. 4-1-08 thru 9-15-08; DMAP 23-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 31-2008(Temp), f. & cert. ef. 10-1-08 thru 3-29-09

Rule Caption: Public entities; DRA requirements; CMS Moratorium language; and MMIS.

Adm. Order No.: DMAP 32-2008(Temp)

Filed with Sec. of State: 10-2-2008

Certified to be Effective: 10-2-08 thru 3-27-09

Notice Publication Date:

Rules Adopted: 410-138-0005, 410-138-0007, 410-138-0009

Rules Amended: 410-133-0090, 410-133-0220, 410-138-0000, 410-138-0020, 410-138-0080, 410-138-0300, 410-138-0320, 410-138-0380, 410-138-0500, 410-138-0520, 410-138-0560, 410-138-0600, 410-138-0620, 410-138-0680, 410-138-0700, 410-138-0720, 410-138-0740, 410-138-0780

Rules Suspended: 410-133-0090(T), 410-133-0220(T), 410-138-0080(T), 410-138-0380(T), 410-138-0560(T), 410-138-0680(T), 410-138-0740(T), 410-138-0780(T)

Subject: The School Based Health Services (SBHS) program rules and Targeted Case Management (TCM) program rules govern Division of Medical Assistance Programs' (DMAP) payments for services provided to certain clients. Effective July 1, 2008, DMAP temporarily amended rules in these programs. New information prompted this temporary filing where DMAP adopted rules and further amended rules to supersede the July 1, 2008 rules.

DMAP filed the emergency rules due to the Centers for Medicare and Medicaid Services (CMS) reinterpretation of a federal regulation regarding the timing for payments received by DMAP for the providers' non-federal matching share portion. The rules were amended for coordination and consistency of the payment obligations between DHS and public providers responsible for public funds

(called the local match or non federal matching funds) allowable to match federal funds that reimburse covered services.

The TCM program also includes CMS Moratorium language exceptions for definitions, requirements and policies for Case Management/Targeted Case management services provided, that remain in effect under this Moratoria in compliance with the Deficit Reduction Act of 2005.

Temporary rules 410-133-0090 and 410-133-0220 are further revised to define payment for the leveraging process in the interim or delay of the Medicaid Management Information System.

The DMAP TCM program administrative rules are undergoing a complete reorganization. As part of the reorganization, DMAP consolidated language related to the issues stated above making the rules more transparent and user friendly for DMAP, providers and the public.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-133-0090

Public Education Agency School Medical Provider Payment Requirements

These rules are designed to assist the public Education Agency (EA) School Medical (SM) provider in matching state and federal funds for services defined by Section 1915(g) of the Social Security Act, 42 USC § 1396n(g) and are to be used in conjunction with the Division of Medical Assistance Programs (DMAP) General Rules (OAR 410 Division 120).

(1) Payment will be made to the enrolled School Medical (SM) Provider with the Department of Human Services (DHS), also termed Department, meeting the requirements set forth in the Provider Enrollment Agreement for those covered health services provided by medically qualified staff working within the scope of their practice. Medically qualified staff must meet the qualifications as outlined in OAR 410-133-0120 Medically Qualified Staff.

(2) Signing the school medical provider enrollment agreement sets forth the relationship between the State of Oregon, the Department, and the SM Provider and constitutes agreement by the SM Provider to comply with all applicable rules of the Department, the Division of Medical Assistance Programs (DMAP), and federal and state laws or regulations.

(3) The School Medical (SM) Provider will bill for covered services provided to Medicaid-eligible students according to these School-Based Health Services (SBHS) rules. Payments will be made through the Medicaid Management Information System (MMIS) and the SM Provider must retain the full payment for the covered services provided. The SM Provider must have a Trading Partner Agreement with the Department prior to submission of electronic transactions.

(4) School-based health services (SBHS) authorized under these rules is a cost-sharing Federal Financial Participation (FFP) matching program in which the Education Agency (EA) SM Provider that is a public entity unit of government, is responsible for paying the non-federal matching share of the amount of the SBHS claims, calculated using the Federal Medical Assistance Percentage (FMAP) rates in effect during the quarter when the SBHS claims will be paid:

(a) The unit of government public education agency SM Provider's share means the public funds share of the Medicaid payment amount. Pursuant to 42 CFR 433.51, public funds may be considered as the State's share in claiming federal financial participation (FFP) if the public funds meet the following conditions:

(A) The public funds are transferred to the Department from public entities that are units of government;

(B) The public funds are not federal funds or they are federal funds authorized by federal law to be used to match other federal funds;

(C) All sources of funds must be allowable under 42 CFR 433 Subpart B;

(b) The unit of government EA SM Provider must pay its non-federal matching share portion for claims submitted to the Department in accordance with OAR 410-120-0035.

(5) Before DHS pays for SBHS claims, DHS must receive the SM provider's corresponding local match payment as described in this rule. Failure to timely pay the non-federal matching funds to DHS will delay reimbursement of claims and may require the SM provider to resubmit the claims.

(6) The Department will not be financially responsible for payment of any claim that the Centers for Medicare and Medicaid Services (CMS) disallows under the Medicaid program. If the Department has previously paid the SM Provider for any claim which the CMS disallows, the SM Provider must reimburse the Department the amount of the claim that the Department has paid to the SM Provider, less any amount previously paid by the unit of government EA SM Provider to the Department for purposes

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es of reimbursing the Department for the non-federal match portion of that claim.

Stat. Auth.: ORS 409.010, 409.110 & 409.050

Stats. Implemented: ORS 414.065

Hist.: HR 39-1991, f. & cert. ef. 9-16-91; HR 41-1992, f. 12-31-92, cert. ef. 1-1-93; OMAP 31-1998, f. & cert. ef. 9-1-98; OMAP 88-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 4-2004, f. 1-23-04, cert. ef. 2-1-04; OMAP 24-2005(Temp), f. & cert. ef. 4-5-05 thru 10-1-05; OMAP 53-2005, f. 9-30-05, cert. ef. 10-1-05; DMAP 28-2008(Temp), f. 6-30-08, cert. ef. 7-1-08 thru 12-28-08; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-133-0220

Billing and Payment

(1) The School Medical (SM) Provider must bill the Department of Human Services (DHS), also termed Department, in accordance with OAR 410-120-0035; and must bill at a cost rate no greater than the education agency's cost rate for the applicable discipline reviewed and accepted by the Department based on the cost determination process described in 410-133-0245.

(2) Services must be billed on a CMS-1500 or by electronic media claims (EMC) submission using only those procedure codes specified for the School-Based Health Services program (SBHS). If the SM Provider submits their claims electronically, the SM Provider must become a trading partner with the Department and comply with the requirements for Electronic Data Interchange (EDI) pursuant to OAR 410-001-0000 et seq.

(3) The Department will accept a claim up to 12 months from the date of service. See General Rules OAR 410-120-1300, Timely Submission of Claims.

(4) Third party liability. In general, the Medicaid program is the payor of last resort and a provider is required to bill other resources before submitting the claim to Medicaid. This requirement means that other payment sources, including other federal or state funding sources, must be used first before the Department can be billed for covered health services. However, the following exceptions apply to the requirement to pursue third party resources:

(a) For health services provided under the Individuals with Disabilities Education Act (IDEA), Medicaid pays before Oregon Department of Education (ODE) or the Educational Agency (EA), to the extent the health service is a covered service provided to a Medicaid-eligible student documented as required under these rules, and subject to the applicable reimbursement rate;

(b) If School-Based Health Services (SBHS) are provided under Title V of the Social Security Act (Maternal and Child Health Services Block Grant), Medicaid-covered Health Services provided by a Title V grantee are paid by Medicaid before the Title V funds;

(c) The Centers for Medicare and Medicaid Services (CMS) recognize that while schools are legally liable to provide IDEA-related health services at no cost to the eligible students, Medicaid reimbursement is available for these services because section 1903 (c) of the ACT requires Medicaid to be primary to the U.S. Department of Education for payment of the health-related services provided under IDEA.

Stat. Auth.: ORS 409.010, 409.110 & 409.050

Stats. Implemented: ORS 414.065

Hist.: HR 39-1991, f. & cert. ef. 9-16-91; OMAP 31-2003, f. & cert. ef. 4-1-03; OMAP 31-2003, f. & cert. ef. 4-1-03; OMAP 53-2003, f. 8-13-03 cert. ef. 9-1-03; OMAP 24-2005(Temp), f. & cert. ef. 4-5-05 thru 10-1-05; OMAP 53-2005, f. 9-30-05, cert. ef. 10-1-05; DMAP 28-2008(Temp), f. 6-30-08, cert. ef. 7-1-08 thru 12-28-08; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0000

Purpose — Babies First/Cacoon program

(1) These rules are to be used in conjunction with the Division of Medical Assistance Programs' (DMAP) General Rules (chapter 410 division 120).

(2) Targeted Case Management (TCM) services is a medical assistance program operated by public health authorities. Babies First/Cacoon TCM program, authorized under these rules, is a cost-sharing (Federal Financial Participation (FFP) matching) program in which the TCM provider as a public entity, unit of government, is responsible for paying the non-federal matching share of the amount of the TCM claims. (See 410-138-0005 Payment for Targeted Case Management (TCM) Services Eligible for Federal Financial Participation.) The TCM services rules are designed to assist the TCM provider organization in matching state and federal funds for TCM services defined by section 1915(g) of the Social Security Act, 42 USC (1396n)(g).

(3) The Babies First/Cacoon program TCM services rules define the Oregon Medicaid program for reimbursing services provided under Babies First/Cacoon. This program improves access to needed medical, social, education, and other services for infants and pre-school children (0 through 3 years) covered by Medicaid who are at risk of poor health outcomes as outlined in OAR 410-138-0040, Risk Factors. TCM services are provided by an enrolled Babies First/Cacoon program TCM provider consistent with these rules.

(4) TCM services include management of medical and non-medical services, which address health, psychosocial, economic, nutritional, and other needs. Home visits constitute a significant part of the delivery of targeted case management services. No direct care services are authorized as part of case management activities.

(5) Provision of Babies First/Cacoon program TCM services may not restrict an eligible client's choice of providers:

(a) Eligible clients must have free choice of available Babies First/Cacoon program TCM service providers or other TCM service providers available to the eligible client, subject to the Social Security Act, 42 USC 1396n;

(b) Eligible clients must have free choice of the providers of other medical care within their benefit package of covered services.

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 414.085

Hist.: HR 20-1992, f. & cert. ef. 7-1-92; OMAP 61-2004, f. 9-10-04, cert. ef. 10-1-04; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0005

Payment for Targeted Case Management Services Eligible for Federal Financial Participation

(1) All Targeted Case Management (TCM) rules are to be used in conjunction with the Division of Medical Assistance Programs (DMAP) General Rules (chapter 410 division 120) and the TCM supplemental information.

(2) The TCM services rules are designed to assist the TCM provider organization in matching state and federal funds for TCM services defined by Section 1915(g) of the Social Security Act, 42 USC § 1396n(g).

(3) Payment will be made to the TCM provider enrolled with the Department of Human Services (DHS) as a unit of government provider meeting the requirements set forth in the provider enrollment agreement.

(4) Signing the provider enrollment agreement sets forth the relationship between the State of Oregon, DHS and the TCM provider and constitutes agreement by the TCM provider to comply with all applicable rules of DHS, federal and state laws or regulations.

(5) The TCM provider will bill according to administrative rules in chapter 410, division 138 and the TCM supplemental information. Payments will be made using the Medicaid Management Information System (MMIS) and the TCM provider will retain the full payment for covered services provided. The TCM provider must have a Trading Partner Agreement with DHS prior to submission of electronic transactions.

(6) Targeted case management authorized under these rules is a cost-sharing (Federal Financial Participation (FFP) matching) program in which the TCM provider as a public entity, unit of government, is responsible for paying the non-federal matching share of the amount of the TCM claims, calculated using the Federal Medical Assistance Percentage (FMAP) rates in effect during the quarter when the TCM claims will be paid:

(a) The TCM provider's non-federal matching share means the public funds share of the Medicaid payment amount. Pursuant to the Social Security Act, 42 CFR 433.51, public funds may be considered as the state's share in claiming federal financial participation, if the public funds meet the following conditions:

(A) The public funds are transferred to DHS from public entities that are units of government;

(B) The public funds are not federal funds or they are federal funds authorized by federal law to be used to match other federal funds; and

(C) All sources of funds must be allowable under the Social Security Act 42 CFR 433 Subpart B;

(b) The unit of government TCM provider must pay the non-federal matching share to DHS in accordance with OAR 410-120-0035.

(7) Before DHS pays for TCM claims, DHS must receive the corresponding local match payment as described in this rule. Failure to timely pay the non-federal matching funds to DHS will delay payment and may require the TCM provider to resubmit the claims.

(8) DHS will not be financially responsible for payment of any claim that the Centers for Medicare and Medicaid Services (CMS) disallows under the Medicaid program. If DHS has previously paid the TCM provider for any claim which CMS disallows, the TCM provider must reimburse DHS the amount of the claim that DHS has paid to the TCM provider, less any amount previously paid by the unit of government TCM provider to DHS for the non-federal match portion for that claim.

(9) Providers can only bill Medicaid for allowable activities in the Targeted Case Management (TCM) program, that assist individuals eligible under the Medicaid State plan to gain access to needed medical, social, education, and other services. One or more of the following allowable activities must occur before billing:

(a) Assessment;

(b) Development of a care plan;

(c) Referral (including follow up); and

(d) Monitoring (including follow up).

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(10) TCM claims must not duplicate payments made to:

(a) Public agencies or private entities for any other case management activities or direct services provided under the State Plan or the Oregon Health Plan (OHP), through fee for service, managed care, or other contractual arrangement, that meet the same need for the same client at the same point in time;

(b) A TCM provider by program authorities under different funding authority than the Oregon Health Plan, including but not limited to other public health funding;

(c) A TCM provider for administrative expenditures reimbursed under agreement with DHS or any other program or funding source.

(11) Medicaid is only liable for the cost of otherwise allowable case management services if there are no other third parties liable to pay. However, while schools are legally liable to provide IDEA-related health services at no cost to eligible children, Medicaid reimbursement is available for these services because section 1903(c) of the Act requires Medicaid to be primary to the U.S. Department of Education for payment for covered Medicaid services furnished to a child with a disability. These services may include health services included in a child's Individualized Education Program (IEP) or Individual Family Service Plan (IFSP) under the IDEA. Payment for those services that are included in the IEP or IFSP would not be available when those services are not covered Medicaid services.

Stat. Auth.: ORS 409.010 & ORS 409.110

Stats. Implemented: ORS 414.085

Hist.: DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0007

Targeted Case Management — Covered Services

(1) Targeted case management services may be furnished only to eligible clients. An "eligible client" is a person who is eligible for Medicaid and eligible for case management services (including targeted case management services) as defined in the Medicaid State plan, at the time the services are furnished.

(2) "Targeted case management services" are case management services provided to a specific target group of individuals that assist individuals eligible under the State plan in gaining access to needed medical, social, educational, and other services (such as housing or transportation).

(3) Targeted Case Management Services billed to Medicaid must be for allowable activities and include one or more of the following components:

(a) Assessment of an eligible client in the target group to determine the need for medical, educational, social, or other services as follows:

(A) Taking client history;

(B) Identifying the needs of the client, and completing related documentation;

(C) Gathering information from other sources, such as family members, medical providers, social workers, and educators, if necessary, to form a complete assessment of the eligible client;

(D) Periodically reassessing a client to determine whether the client's needs or preferences have changed. A reassessment must be conducted at least annually or more frequently if changes occur in an individual's condition;

(b) Development of a care plan based on the information collected through the assessment or periodic reassessment, specifying the goals and actions to address the medical, social, educational, and other services needed by the eligible client. These may include:

(A) Active participation of the eligible client in the target group; or

(B) Working with the eligible client or the eligible client's authorized health care decision maker(s) and others to develop goals and identify a course of action to respond to the assessed needs of the eligible client;

(c) Referral and related activities such as:

(A) Scheduling appointments for the client in the target group to obtain needed services; and

(B) Activities that help link the eligible client with medical, social, or educational providers, or other programs and services that address identified needs and achieve goals specified in the care plan. The case management referral activity is completed once the referral and linkage has been made;

(d) Monitoring or ongoing face-to-face or other contact;

(A) Monitoring and follow-up activities include activities and contacts:

(i) To ensure the care plan is effectively implemented;

(ii) To help determine whether the services are being furnished in accordance with the eligible client's care plan;

(iii) To determine whether the care plan adequately addresses the needs of the eligible client in the target group;

(iv) To adjust the care plan to meet changes in the needs or status of the eligible client;

(B) Monitoring activities may include contacts with:

(i) The participating eligible client in the target group;

(ii) The eligible client's healthcare decision maker(s), family members, providers, or other entities or individuals when the purpose of the contact is directly related to the management of the eligible client's care.

Stat. Auth.: ORS 409.010 & ORS 409.110

Stats. Implemented: ORS 414.085

Hist.: DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0009

Targeted Case Management — Services Not Covered

(1) Direct delivery of an underlying medical, educational, social or other service, to which the eligible client has been referred.

(2) Providing transportation to a service to which an eligible client is referred.

(3) Escorting an eligible client to a service.

(4) Providing child care so that an eligible client may access a service.

(5) Contacts with individuals who are not eligible for Medicaid, or who are Medicaid eligible but not included in the eligible target population when those contacts relate directly to the identification and management of the non-eligible or non-targeted individual's needs and care.

(6) Assisting an individual, who has not yet been determined eligible for Medicaid, to apply for or obtain this eligibility.

(7) TCM services provided to an individual if the services are case management services funded by Title IV-E or Title XX of the Social Security Act, or federal or state funded parole and probation, or juvenile justice programs.

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 414.085

Hist.: DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0020

Definitions — Babies First/Cacoon program

(1) Assessment — The act of gathering information and reviewing historical and existing records of an eligible client in a target group to determine the need for medical, educational, social, or other services. To perform a complete assessment, the case manager will gather information from family members, medical providers, social workers, and educators, if necessary.

(2) Care Plan — A set of goals and actions required to address the medical, social, educational, and other service needs of the eligible client based on the information collected through an assessment or periodic reassessment.

(3) Case Management — Activities performed by a case manager to assist the eligible clients under the Medicaid State plan to gain access to and effectively use needed medical, social, educational, and other services (such as housing or transportation). Also see definition for "Targeted Case Management."

(4) Duplicate payments — Payments are considered "duplicate" if more than one entity is reimbursed for the same services to meet the same need for the same client.

(5) Eligible client — An individual who is deemed eligible for Medicaid or the Children's Health Insurance Program (CHIP) by the Department of Human Services (DHS) and eligible for case management services (including targeted case management services) as defined in the Medicaid State plan, at the time the services are furnished.

(6) Medical Assistance Program — A program that provides and pays for health services for eligible Oregonians. The Oregon Medical Assistance Program includes TCM services provided to clients eligible under the Oregon Health Plan (OHP) Title XIX, and the Children's Health Insurance Program (CHIP) Title XXI. The Medical Assistance Program is administered by the Division of Medical Assistance Programs (DMAP).

(7) Monitoring — Ongoing face-to-face or other contact to conduct follow-up activities with the participating eligible client or the client's health care decision maker(s), family members, providers or other entities or individuals when the purpose of the contact is directly related to managing the eligible client's care to ensure the care plan is effectively implemented.

(8) Referrals — Performing activities such as scheduling appointments that link the eligible client with medical, social, educational providers, or other programs and services, and follow-up and documentation of services obtained.

(9) Targeted Case Management (TCM) Services — Case management services provided to a specific target group of eligible clients under the Medicaid State plan to gain access to needed medical, social, educational, and other services (such as housing or transportation). TCM services are available only to eligible clients. See definition for "Eligible client."

Stat. Auth.: ORS 409.010 and ORS 409.110

Stats. Implemented: ORS 409.010 and 414.065

Hist.: HR 20-1992, f. & cert. ef. 7-1-92; OMAP 50-2004, f. 9-9-04, cert. ef. 10-1-04; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

ADMINISTRATIVE RULES

410-138-0080

Rate Methodology, Billing Criteria and Codes - Babies First/Cacoon Program

(1) Providers can only bill for allowable activities in the Targeted Case Management (TCM) services billed to Medicaid, that assist individuals eligible under the Medicaid State plan to gain access to needed medical, social, education, and other services. One or more of the activities listed below must occur in order to bill:

- (a) Assessment;
- (b) Development of a care plan;
- (c) Referral (including follow up);
- (d) Monitoring (including follow up).

(2) A unit of service can only be billed under one procedure code and one provider number:

(a) Providers must use procedure code "T1016" to bill for Babies First/Cacoon TCM procedures. The maximum billing for the T1016 procedure code is one time per day per eligible client;

(b) Providers must use diagnosis code "V201" for Babies First/Cacoon program TCM services.

(3) Any place of service (POS) is valid.

(4) Prior authorization is not required.

(5) DMAP will not allow duplicate payments to other public agencies or private entities under other program authorities for TCM services under the eligible client's care plan. ("Duplicate payment" is defined in 410-138-0020). DMAP will recover duplicate payments.

(6) DMAP may not reimburse for TCM services if the services are case management services funded by Title IV-E or Title XX of the Social Security Act, or federal or state funded parole and probation, or juvenile justice programs. These services must be billed separately.

Stat. Auth.: ORS 409.010, 409.110 & 409.050

Stats. Implemented: ORS 414.065

Hist.: HR 20-1992, f. & cert. ef. 7-1-92; HR 37-1994, f. 12-30-94, cert. ef. 1-1-95; OMAP 61-2004, f. 9-10-04, cert. ef. 10-1-04; DMAP 28-2008(Temp), f. 6-30-08, cert. ef. 7-1-08 thru 12-28-08; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0300

Human Immunodeficiency Virus Targeted Case Management Program

(1) These administrative rules are to be used in conjunction with the Division of Medical Assistance Program's (DMAP) General Rules (chapter 410 division 120).

(2) Human Immunodeficiency Virus (HIV) Targeted Case Management (TCM) program is a medical assistance program operated by public health authorities and contracted service providers. HIV TCM services authorized under these rules is a cost-sharing (Federal Financial Participation (FFP) matching) program in which the TCM provider as a public entity, unit of government, is responsible for paying the non-federal matching share of the amount of the TCM claims. (See 410-138-0005 Payment for Targeted Case Management Services Eligible for Federal Financial Participation.) The TCM services rules are designed to assist the TCM provider organization in matching state and federal funds for TCM services defined by section 1915(g) of the Social Security Act, 42 USC (1396n)(g).

(3) The HIV TCM rules explain the Oregon Medicaid Program for reimbursing HIV TCM services. This program improves access to needed medical, social, education, and other services for Medicaid eligible clients in Multnomah County with symptomatic HIV disease and one or more risk factors as outlined in OAR 410-138-0340, Risk Criteria. Without targeted case management services these risk factors could result in an eligible client's inability to remain safely in their home.

(4) HIV TCM services include management of medical and non-medical services, which address physical, psychosocial, nutritional, educational, and other needs. Home visits constitute an integral part of the delivery of TCM services, provided by an enrolled HIV TCM provider consistent with these rules. No direct care services are authorized as part of case management activities.

(5) Provision of HIV TCM services may not restrict an eligible client's choice of providers:

(a) Eligible clients must have free choice of available HIV TCM service providers or other TCM service providers available to the eligible client, subject to the Social Security Act, 42 USC 1396n;

(b) Eligible clients must have free choice of the providers of other medical care within their benefit package of covered services.

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 414.085

Hist.: HR 42-1992, f. 12-31-92, cert. ef. 1-1-93; OMAP 61-2004, f. 9-10-04, cert. ef. 10-1-04; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0320

Definitions — Human Immunodeficiency Virus Program

(1) Assessment — The act of gathering of information and reviewing historical existing records of an eligible client in the target group to determine the need for medical, educational, social, or other services. To perform a complete assessment, the case manager will gather information from family members, medical providers, social workers and educators, if necessary.

(2) Care Plan — A set of goals and actions required to address the medical, social, educational, and other service needs of the eligible client based on the information collected through an assessment or periodic reassessment.

(3) Case Management — Activities performed by a case manager to assist the eligible clients under the Medicaid State plan to gain access to and effectively use needed medical, social, educational, and other services (such as housing or transportation). Also see definition for Targeted Case Management.

(4) Duplicate payments — Payments are considered "duplicate" if more than one entity is reimbursed for the same services to meet the same need for the same client.

(5) Eligible client — An individual who is deemed eligible for Medicaid or the Children's Health Insurance Program (CHIP) by the Department of Human Services (DHS) and eligible for case management services (including targeted case management services) as defined in the Medicaid State plan, at the time the services are furnished.

(6) Medical Assistance Program — A program that provides and pays for health services for eligible Oregonians. Oregon's Medical Assistance Program includes TCM services provided to clients eligible under the Oregon Health Plan (OHP) Title XIX, and the Children's Health Insurance Program (CHIP) Title XXI. The Medical Assistance Program is administered by the Division of Medical Assistance Programs (DMAP).

(7) Monitoring — Ongoing face-to-face or other contact to conduct follow-up activities with the participating eligible client or the client's health care decision maker(s), family members, providers or other entities or individuals when the purpose of the contact is directly related to the management of the eligible client's care to ensure the care plan is effectively implemented.

(8) Referrals — Performing activities such as scheduling appointments that link the eligible individual with medical, social, educational providers, or other programs and services, and follow up and documentation of services obtained.

(9) Targeted Case Management (TCM) services — Case management services provided to a specific target group that assist eligible clients under the Medicaid State plan to gain access to needed medical, social, educational, and other services (such as housing or transportation). TCM services are available only to eligible clients. See definition for "Eligible client."

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 409.010

Hist.: HR 42-1992, f. 12-31-92, cert. ef. 1-1-93; OMAP 50-2004, f. 9-9-04, cert. ef. 10-1-04; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0380

Rate Methodology, Billing Criteria and Codes — Human Immunodeficiency Virus (HIV) Program

(1) Providers can only bill for allowable activities in the HIV Targeted Case Management (TCM) program that assist individuals eligible under the Medicaid State plan to gain access to needed medical, social, education, and other services. One or more of the activities listed below must occur in order to bill:

- (a) Assessment;
- (b) Development of a care plan;
- (c) Referral (including follow up);
- (d) Monitoring (including follow up).

(2) A unit of service can only be billed under one procedure code and one provider number:

(a) The procedure code to be used is "T2023". The maximum billing for the T2023 procedure code is one time per calendar month per eligible client;

(b) The provider must use diagnosis code "V08" or "042" for HIV TCM program services.

(3) Any place of service (POS) is valid.

(4) Prior authorization is not required.

(5) DMAP will not allow duplicate payments to other public agencies or private entities under other program authorities for HIV TCM services under the eligible client's care plan. ("Duplicate payment" is defined in 410-138-0320). DMAP will recover duplicate payments.

(6) DMAP may not reimburse for TCM services if the services are case management services funded by Title IV-E or Title XX of the Social Security Act, or federal or state funded parole and probation, or juvenile justice programs. These services must be billed separately.

Stat. Auth.: ORS 409.010, 409.110 & 409.050

ADMINISTRATIVE RULES

Stats. Implemented: ORS 414.065
Hist.: HR 42-1992, f. 12-31-92, cert. ef. 1-1-93; OMAP 61-2004, f. 9-10-04, cert. ef. 10-1-04; DMAP 28-2008(Temp), f. 6-30-08, cert. ef. 7-1-08 thru 12-28-08; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0500

Pregnant Substance Abusing Women and Women with Young Children Targeted Case Management Program

(1) These rules are to be used in conjunction with the General Rules governing the Division of Medical Assistance Programs (DMAP) (chapter 410, division 120).

(2) The Pregnant Substance Abusing Women and Women with Young Children (PWWC) Targeted Case Management (TCM) program is a medical assistance program operated by public health authorities. PWWC TCM services authorized under these rules is a cost-sharing (Federal Financial Participation (FFP) matching) program in which the TCM provider as a public entity unit of government is responsible for paying the non-federal matching share of the amount of the TCM claims. (See 410-138-0005 Payment for Targeted Case Management Services Eligible for Federal Financial Participation.) The TCM services rules are designed to assist the TCM provider organization in matching state and federal funds for TCM services defined by Section 1915(g) of the Social Security Act, 42 USC (1396n)(g).

(3) The TCM rules for Pregnant Substance Abusing Women and Women with Young Children explain the Oregon Medicaid Program for reimbursing PWWC TCM services. This program improves access to needed medical, social, education and other services to Medicaid eligible women living in Marion, Polk, Linn, Benton, Jackson, and Yamhill Counties, provided by an enrolled PWWC TCM provider consistent with these rules.

(4) TCM services include management of medical and non-medical services, which address physical, psychosocial, nutritional and other needs to help this target group remain clean and sober. The provision of TCM services by an enrolled PWWC TCM provider must be consistent with these rules. No direct care services are authorized as part of case management activities.

(5) Provision of PWWC TCM services may not restrict an eligible client's choice of providers:

(a) Eligible clients must have free choice of available PWWC TCM service providers or other TCM service providers available to the eligible client, subject to the Social Security Act, 42 USC 1396n;

(b) Eligible clients must have free choice of the providers of other medical care within their benefit package of covered services.

Stat. Auth.: ORS 409
Stats. Implemented: ORS 414.065
Hist.: HR 19-1993, f. & cert. ef. 8-13-93; OMAP 41-1999, f. 10-15-99, cert. ef. 10-20-99; OMAP 61-2004, f. 9-10-04, cert. ef. 10-1-04; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0520

Definitions — Pregnant Substance Abusing Women and Women with Young Children Program

(1) Assessment — The act of gathering information and reviewing historical and existing records of an eligible client in a target group to determine the need for medical, educational, social, or other services. To perform a complete assessment, the case manager will gather information from family members, medical providers, social workers, and educators, if necessary.

(2) Care Plan — A set of goals and actions required to address the medical, social, educational, and other service needs of the eligible client based on the information collected through an assessment or periodic reassessment.

(3) Case Management — Activities performed by a case manager to assist the eligible clients under the Medicaid State plan to gain access to and effectively use needed medical, social, educational, and other services (such as housing or transportation). Also see definition for "Targeted Case Management."

(4) Duplicate payments — Payments are considered "duplicate" if more than one entity is reimbursed for the same services to meet the same need for the same client.

(5) Eligible client — An individual who is deemed eligible for Medicaid or the Children's Health Insurance Program (CHIP) by the Department of Human Services (DHS) and eligible for case management services (including targeted case management services) as defined in the Medicaid State plan, at the time the services are furnished.

(6) Medical Assistance Program — A program that provides and pays for health services for eligible Oregonians. The Oregon Medical Assistance Program includes TCM services provided to clients eligible under the Oregon Health Plan (OHP) Title XIX, and the Children's Health Insurance Program (CHIP) Title XXI. The Medical Assistance Program is administered by the Division of Medical Assistance Programs (DMAP).

(7) Monitoring — Ongoing face-to-face or other contact to conduct follow-up activities with the participating eligible client or the client's health care decision maker(s), family members, providers or other entities or individuals when the purpose of the contact is directly related to managing the eligible client's care to ensure the care plan is effectively implemented.

(8) Referrals — Performing activities such as scheduling appointments that link the eligible client with medical, social, educational providers, or other programs and services, and follow-up and documentation of services obtained.

(9) Targeted Case Management (TCM) Services — Case management services provided to a specific target group of eligible clients under the Medicaid State plan to gain access to needed medical, social, educational, and other services (such as housing or transportation). TCM services are available only to eligible clients. See definition for "Eligible client."

Stat. Auth.: ORS 409.010 & ORS 409.110
Stats. Implemented: ORS 414.010
Stat. Auth.: ORS 409.010 & 409.110
Stats. Implemented: ORS 414.010
Hist.: HR 19-1993, f. & cert. ef. 8-13-93; OMAP 50-2004, f. 9-9-04, cert. ef. 10-1-04; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0560

Rate Methodology, Billing Criteria and Codes — Pregnant Substance Abusing Women and Women with Young Children

(1) Providers can only bill for allowable activities in the PWWC Targeted Case Management Program that assist individuals eligible under the Medicaid State plan to gain access to needed medical, social, education, and other services. One or more of the activities listed below must occur in order to bill:

- (a) Assessment;
- (b) Development of a care plan;
- (c) Referral (including follow up);
- (d) Monitoring (including follow up).

(2) A unit of service can only be billed under one procedure code and one provider number:

(a) Providers must use procedure code "T2023" for Pregnant Substance Abusing Women with Young Children — TCM services. The maximum billing for the T2023 procedure code is one time per calendar month per eligible client.

(b) Providers must use diagnosis code "V6141" For Pregnant Substance Abusing Women with Young Children program — TCM services.

(3) Any place of service (POS) is valid.

(4) Prior authorization is not required.

(5) DMAP will not allow duplicate payments to other public agencies or private entities under other program authorities for TCM services under the eligible client's care plan. ("Duplicate payment" is defined in 410-138-0520). DMAP will recover duplicate payments.

(6) DMAP may not reimburse for TCM services if the services are case management services funded by Title IV-E or Title XX of the Social Security Act, or federal or state funded parole and probation, or juvenile justice programs. These services must be billed separately.

Stat. Auth.: ORS 409.010, 409.110 & 409.050
Stats. Implemented: ORS 414.065
Hist.: HR 19-1993, f. & cert. ef. 8-13-93; OMAP 61-2004, f. 9-10-04, cert. ef. 10-1-04; DMAP 28-2008(Temp), f. 6-30-08, cert. ef. 7-1-08 thru 12-28-08; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0600

Purpose — Federally Recognized Tribal Governments in Oregon

(1) These rules are to be used in conjunction with DMAP General Rules (chapter 410 division 120).

(2) The Federally Recognized Tribal Government (Tribal) Targeted Case Management (TCM) program is a medical assistance program operated by federally recognized tribal governments in Oregon. Tribal TCM services authorized under these rules is a cost-sharing (Federal Financial Participation (FFP) matching) program in which the Tribal TCM provider unit of government entity is responsible for payment of allowable tribal matching funds as the non-federal matching share of the amount of TCM claims. (See 410-138-0005 Payment for Targeted Case Management Services Eligible for Federal Financial Participation.) The TCM services program rules are designed to assist the case management provider organization in matching allowable tribal and federal funds for TCM services defined by Section 1915(g) of the Social Security Act, 42 USC § 1396n(g).

(3) The Tribal TCM rules explain the Oregon Medicaid program to reimburse the TCM services provided by a federally recognized tribal government located in the State of Oregon. This program improves access to needed medical, social, education, and other services for Medicaid eligible adults, children, and pregnant women, served by tribal programs, provided

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by an enrolled tribal TCM provider consistent with these rules. No direct care services are authorized as part of case management activities.

(4) Tribal TCM services include case management of medical and non-medical services, which address health, psychosocial, economic, nutritional, and other needs.

(5) Provision of Tribal TCM services may not restrict an eligible client's choice of providers:

(a) Eligible clients must have free choice of available Tribal TCM service providers or other TCM service providers available to the eligible client, subject to Social Security Act, 42 USC 1396n;

(b) Eligible clients must have free choice of the providers of other medical care within their benefit package of covered services.

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 414.085

Hist.: OMAP 2-2006(Temp), f. & cert. ef. 2-7-06 thru 7-1-06; OMAP 21-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0620

Definitions — Federally Recognized Tribal Governments in Oregon

(1) Assessment — The act of gathering information and reviewing historical and existing records of an eligible client in a target group to determine the need for medical, educational, social, or other services. To perform a complete assessment, the case manager will gather information from family members, medical providers, social workers, and educators, if necessary.

(2) Care Plan — A set of goals and actions required to address the medical, social, educational, and other service needs of the eligible client based on the information collected through an assessment or periodic reassessment.

(3) Case Management — Activities performed by a case manager to assist the eligible clients under the Medicaid State plan to gain access to and effectively use needed medical, social, educational, and other services (such as housing or transportation). Also see definition for "Targeted Case Management."

(4) Duplicate payments — Payments are considered "duplicate" if more than one entity is reimbursed for the same services to meet the same needs for the same client.

(5) Eligible client — An individual who is deemed eligible for Medicaid or the Children's Health Insurance Program (CHIP) by the Department of Human Services (DHS) and eligible for case management services (including targeted case management services) as defined in the Medicaid State plan, at the time the services are furnished.

(6) Medical Assistance Program — A program that provides and pays for health services for eligible Oregonians. The Oregon Medical Assistance Program includes TCM services provided to clients eligible under the Oregon Health Plan (OHP) Title XIX, and the Children's Health Insurance Program (CHIP) Title XXI. The Medical Assistance Program is administered by the Division of Medical Assistance Programs (DMAP).

(7) Monitoring — Ongoing face-to-face or other contact to conduct follow-up activities with the participating eligible client or the client's health care decision makers, family members, providers or other entities or individuals when the purpose of the contact is directly related to managing the eligible client's care to ensure the care plan is effectively implemented.

(8) Referrals — Performing activities such as scheduling appointments that link the eligible client with medical, social, educational providers, or other programs and services and follow-up and documentation of services obtained.

(9) Targeted case management (TCM) services — Case management services provided to a specific target group of eligible clients under the Medicaid State plan to gain access to needed medical, social, educational, and other services (such as housing or transportation). TCM services are available only to eligible clients. See definition for "Eligible client."

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 409.010 & 414.065

Hist.: OMAP 2-2006(Temp), f. & cert. ef. 2-7-06 thru 7-1-06; OMAP 21-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0680

Cost Rate Methodology, Billing Criteria and Codes — Federally Recognized Tribal Governments in Oregon

(1) DMAP will not allow duplicate payments to other public agencies or private entities under other program authorities for Targeted Case Management (TCM) services under an eligible client's care plan. ("Duplicate payment" is defined in 410-138-0620). DMAP will recover duplicate payments. DMAP may not reimburse for TCM services if the services are case management services funded by Title IV-E or Title XX of the Social Security Act, or federal or state funded parole and probation, or juvenile justice programs. These case management services must be billed separately.

(2) Payment Methodology for Tribal TCM: For the purposes of these TCM rules, the amount of time in a "unit" equals one month. A unit

includes at least one documented contact with the client (or other person acting on behalf of the client) and any number of documented contacts with other individuals or agencies identified through the case planning process.

(3) Payment for Tribal TCM services will be made using a monthly rate based on the total average monthly cost per client served by the TCM provider during the last fiscal year for which audited financial statements have been filed with the Department of Human Services (DHS). The costs used to derive the monthly Tribal TCM rate will be limited to the identified costs divided by the number of clients served. Tribal TCM provider costs for direct and related indirect costs that are paid by other federal or state programs must be removed from the cost pool. The cost pool must be updated, at a minimum, on an annual basis using a provider cost report. The rate is established on a prospective basis. In the first year, the rate will be based on estimates of cost and the number of clients served. For subsequent years, the rate will be based on actual eligible TCM costs from the previous year. A cost report must be submitted to DHS at the end of each state fiscal year (at a minimum), and will be used to establish a new rate for the following fiscal year.

(4) Billing criteria: Providers can only bill for allowable activities in the Tribal TCM program, that assist individuals eligible under the Medicaid State plan to gain access to needed medical, social, education, and other services. One or more of the activities listed below must occur in order to bill:

(a) Assessment;

(b) Development of a care plan;

(c) Referral (including follow up);

(d) Monitoring (including follow up).

(5) A unit of service can only be billed under one procedure code and one provider number:

(a) Providers must use procedure code "T1017" to bill for Federally Recognized Tribal Government TCM procedures. The maximum billing for the T1017 procedure code is one time per day per eligible client.

(b) Providers must use the appropriate diagnosis code and modifier for Federally Recognized Tribal Government TCM services.

(6) Any place of service (POS) is valid.

(7) Prior authorization is not required.

Stat. Auth.: ORS 409.010, 409.110 & 409.050

Stats. Implemented: ORS 414.065

Hist.: OMAP 2-2006(Temp), f. & cert. ef. 2-7-06 thru 7-1-06; OMAP 21-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 28-2008(Temp), f. 6-30-08, cert. ef. 7-1-08 thru 12-28-08; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0700

Early Intervention/Early Childhood Special Education Targeted Case Management Program

(1) These rules are to be used in conjunction with the DMAP General Rules Program (chapter 410, division 120).

(2) The Targeted Case Management (TCM) services rules are designed to assist the Early Intervention/Early Childhood Special Education (EI/ECSE) TCM provider organization in matching state and federal funds for TCM services defined by section 1915(g) of the Social Security Act, 42 USC § 1396n(g).

(3) The EI/ECSE TCM program is a medical assistance program provided by enrolled EI/ECSE TCM providers that meet the criteria for the provision of special education programs approved by the State Superintendent of Public Instruction qualifying such programs for state reimbursement under OAR 581-015-2710 EI/ECSE.

(4) Enrolled EI/ECSE TCM providers must be contractors with the Oregon Department of Education for the provision of EI/ECSE services or be sub-contractors with such a contractor.

(5) EI/ECSE TCM services authorized under these rules is a cost-sharing (Federal Financial Participation (FFP) matching) program in which the enrolled EI/ECSE TCM provider as a public entity, unit of government, is responsible for paying the non-federal matching share of the amount of the TCM claims. (See 410-138-0005).

(6) The rules of the EI/ECSE TCM program explain the Oregon Medicaid program for reimbursing case management services available to Medicaid-eligible preschool children with disabilities, receiving EI/ECSE services from birth until they are eligible for public school (0-5 yrs of age). These services are available on a fee-for-service basis, within the limitations established by the Medical Assistance Program and the chapter 410, division 138 rules, consistent with the requirements of the Individuals with Disabilities Education Improvement Act (IDEIA).

(7) EI/ECSE TCM program services include management of medical and non-medical services, to address an eligible child's medical, social, educational, and other service needs (such as housing or transportation) in coordination with a child's Individualized Family Service Plan (IFSP), based on information collected through the TCM assessment or periodic reassessment process. No direct services are authorized as part of case management activities.

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(8) Provision of EI/ECSE TCM services may not restrict an eligible client's choice of providers.

(a) Eligible clients must have free choice of available EI/ECSE TCM service providers or other TCM service providers available to the eligible client, subject to Social Security Act, 42 USC 1396n(g).

(b) Eligible clients must have free choice of the providers of other medical care within their benefit package of covered services.

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 414.085

Hist.: OMAP 2-2006(Temp), f. & cert. ef. 2-7-06 thru 7-1-06; OMAP 21-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0720

Definitions — Early Intervention/Early Childhood Special Education Targeted Case Management

(1) Assessment — The act of gathering of information and reviewing historical and existing records of an eligible client in the EI/ECSE target group to determine the need for medical, social, educational, and other services (such as housing or transportation) in coordination with the client's Individualized Family Service Plan (IFSP).

(2) Care Plan — A Targeted Case Management Plan coordinated with specified goals and actions on an eligible child's IFSP. The case manager (i.e., service coordinator) identifies services and resources to meet the eligible child's identified needs for medical, social, educational, and other services (such as housing or transportation) based on the information collected through the targeted case management assessment or periodic reassessment process.

(3) Case management — Activities performed by the case manager to assist eligible clients under the State plan in the EI/ECSE target group to gain access to and effectively use needed medical, social, educational, developmental and other appropriate services (such as housing or transportation) identified in the care plan in coordination with an eligible client's IFSP.

(4) Case manager (i.e., service coordinator) — An employee of the EI/ECSE contracting or subcontracting agency meeting the personnel standards requirements in OAR 581-015-2900. The EI/ECSE case manager serves as a single point of contact and is responsible for coordinating all services across agency lines for the purpose of assisting an eligible client to obtain needed medical, social, educational, developmental and other appropriate services (such as housing or transportation) identified in the eligible client's care plan in coordination with the client's IFSP.

(5) Early Intervention (EI) — A program designed to address the unique needs of a child age 0-3 years with a disability.

(6) Early Childhood Special Education (EI/ECSE) — A program designed to address the unique needs of a child age 3-5 years with a disability.

(7) EI/ECSE — Early Intervention/Early Childhood Special Education (EI/ECSE) services are services provided to a preschool child with disabilities, eligible under the Individuals with Disabilities Education Improvement Act (IDEIA), from birth until they are eligible to attend public school, pursuant to the eligible child's Individualized Family Service Plan (IFSP).

(8) EI/ECSE Targeted Case Management program — as a service under the State plan, includes case management services furnished to eligible EI/ECSE preschool children age 0-5 with disabilities to gain access to needed medical, social, educational, developmental and other appropriate services (such as housing or transportation) in coordination with the eligible client's IFSP. EI/ECSE TCM Providers must meet the criteria for the provision of special education programs approved by the State Superintendent of Public Instruction qualifying such programs for state reimbursement under OAR 581-015-2710 EI/ECSE; and must be contractors with the Oregon Department of Education in the provision of EI/ECSE services or be sub-contractors with such a contractor. Medicaid reimbursement for EI/ECSE TCM services is available only to eligible clients in the target group and does not restrict an eligible client's free choice of providers. See definition for "eligible client".

(9) Eligible client — for the purposes of EI/ECSE TCM services the term "eligible client" applies to children eligible for EI/ECSE services under the IDEIA and eligible for EI/ECSE TCM services as defined in the Medicaid State plan, at the time the services are furnished.

(10) Individualized Family Service Plan (IFSP) — A written plan of early childhood special education services, early intervention services, and other services developed in accordance with criteria established by the Oregon Department of Education for each child (ages birth to 5 years) eligible for IFSP services. The plan is developed to meet the needs of a child with disabilities in accordance with requirements and definitions in Oregon Administrative Rules, chapter 581, division 15.

(11) Medical Assistance Program — A program that provides and pays for health services for eligible Oregonians. Oregon's Medical Assistance Program includes TCM services provided to children eligible

under the Oregon Health Plan (OHP) Title XIX, and the Children's Health Insurance Program (CHIP) Title XXI. The Medical Assistance Program is administered by the Division of Medical Assistance Programs (DMAP).

(12) Monitoring — Ongoing face-to-face or other contact to conduct follow up activities with the eligible child's health care decision maker(s), family members, providers or other entities or individuals when the purpose of the contact is directly related to the management of the eligible child's care to ensure the care plan is effectively implemented.

(13) Reassessment — Periodically reassessing the eligible child to determine whether or not medical, social, educational or other services continue to be adequate to meet the goals and objectives identified in the care plan in coordination with a child's IFSP. Reassessment decisions include those to continue, change or terminate TCM services. A reassessment must be conducted at least annually or more frequently if changes occur in an eligible child's condition; or when resources are inadequate or the service delivery system is non-responsive to meet the child's identified service needs.

(14) Referrals — Performing activities such as scheduling appointments that link the eligible child with medical, social, educational providers, or other programs and services, and follow-up and documentation of services obtained.

Stat. Auth.: ORS 409.010 & 409.110

Stats. Implemented: ORS 409.010

Hist.: OMAP 2-2006(Temp), f. & cert. ef. 2-7-06 thru 7-1-06; OMAP 21-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0740

Provider Organizations — Early Intervention/Early Childhood Special Education Targeted Case Management

(1) Qualifications of Early Intervention/Early Childhood Special Education (EI/ECSE) Targeted Case Management (TCM) providers:

(a) TCM Providers must meet the criteria for the provision of special education programs approved by the State Superintendent of Public Instruction qualifying such programs for state reimbursement under OAR 581-015-2710 EI/ECSE; and

(b) Must be contractors with the Oregon Department of Education in the provision of EI/ECSE services or sub-contractors with such a contractor, and must meet the following qualifications:

(A) Demonstrated capacity (including sufficient number of staff that meet the personnel standards requirements in OAR 581-015-2900) to provide EI/ECSE TCM services;

(B) Demonstrated Case Management experience in coordinating and linking such community resources as required by the target population;

(C) Demonstrated experience with the target population;

(D) An administrative capacity to ensure quality of services in accordance with state and federal requirements;

(E) A financial management capacity and system that provides documentation of services and costs;

(F) Capacity to document and maintain individual case records in accordance with state and federal requirements, including requirements for recordkeeping in OAR 410-120-1360, and confidentiality requirements in the Individuals with Disabilities Education and Improvement Act, ORS 192.518-192.524, 179.505, and 411.320, and HIPAA Privacy requirements in 45 CFR 160 and 164, if applicable;

(G) Demonstrated ability to meet all state and federal laws governing the participation of providers in the state Medicaid program; and

(2) In addition to the qualification requirements in subsection (1) of this rule, the EI/ECSE TCM provider must be enrolled as an EI/ECSE TCM provider with the Division of Medical Assistance Programs (DMAP).

(3) The EI/ECSE TCM provider must either be a governmental entity or a subcontractor of a government entity:

(a) The EI/ECSE TCM provider public entity unit of government is solely responsible for providing the EI/ECSE TCM provider's share from public funds for purposes of OAR 410-138-0005 of this rule;

(b) If the EI/ECSE TCM provider is a subcontractor of a governmental entity, the governmental entity is responsible to make the public fund payments in compliance with OAR 410-138-0005.

Stat. Auth.: ORS 409.010, 409.110 & 409.050

Stats. Implemented: ORS 414.065

Hist.: OMAP 2-2006(Temp), f. & cert. ef. 2-7-06 thru 7-1-06; OMAP 21-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 28-2008(Temp), f. 6-30-08, cert. ef. 7-1-08 thru 12-28-08; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

410-138-0780

Cost Rate Methodology, Billing Criteria and Codes for Early Intervention/Early Childhood Special Education Targeted Case Management

(1)(a) Billing criteria for this program are as follows:

(b) Providers can only bill for allowable activities in the Early Intervention/Early Childhood Special Education (EI/ECSE) Targeted Case Management (TCM) program that assist Medicaid eligible preschool

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children with disabilities, from birth until they are eligible for public school (0–5 years of age) to gain access to needed medical, social, educational, and other services, such as housing or transportation. These children must be eligible for EI/ECSE services under the IDEIA and eligible for EI/ECSE TCM services as defined in the Medicaid State plan, at the time the services are furnished. One or more of the activities listed below must occur in order to bill:

- (A) Assessment;
 - (B) Development of a care plan;
 - (C) Referral (including follow-up);
 - (D) Monitoring (including follow up).
- (2) A unit of service can only be billed under one procedure code and one provider number:

(a) Providers must use procedure code “T1017” and include the “TL” modifier for EI/ECSE. The maximum billing for procedure code T1017 is one time per day per eligible client;

(b) Providers must use diagnosis code “V62.3”: Educational Circumstances.

- (3) Any place of service (POS) is valid.
- (4) Prior authorization is not required.

(5) DMAP will not allow duplicate payments to other public agencies or private entities under other program authorities for TCM services under the eligible client’s care plan. (“Duplicate payment” is defined in 410-138-0020). DMAP will recover duplicate payments.

(6) DMAP may not reimburse for TCM services if the services are case management services funded by Title IV-E or Title XX of the Social Security Act, or federal or state funded parole and probation, or juvenile justice programs. These services must be billed separately.

Stat. Auth.: ORS 409.010, 409.110 & 409.050
Stats. Implemented: ORS 414.065
Hist.: OMAP 2-2006(Temp), f. & cert. ef. 2-7-06 thru 7-1-06; OMAP 21-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 28-2008(Temp), f. 6-30-08, cert. ef. 7-1-08 thru 12-28-08; DMAP 32-2008(Temp), f. & cert. ef. 10-2-08 thru 3-27-09

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Rule Caption: Pharmacy Payments for New OHP Clients during the MMIS “Conversion Week.”

Adm. Order No.: DMAP 33-2008(Temp)

Filed with Sec. of State: 10-15-2008

Certified to be Effective: 11-14-08 thru 12-8-08

Notice Publication Date:

Rules Adopted: 410-121-0151

Subject: The Pharmaceutical Services Program administrative rules govern Division of Medical Assistance Programs’ (DMAP) payments for services provided to certain clients. DMAP temporarily adopted 410-121-0151 to ensure that new Oregon Health Plan (OHP) clients will be able to receive their prescriptions during the period of November 28, 2008 through December 8, 2008, otherwise known as the Medicaid Management Information Systems (MMIS) “conversion week.” Pharmacies will not release drugs to clients without proof of client eligibility and subsequent assurance of reimbursement from the State. During the MMIS conversion week, DMAP cannot provide the usual method for pharmacies to verify eligibility. This rule provides alternative methods to verify eligibility. For pharmacies that verify eligibility of new clients not in the Point of Sale (POS) System, this rule will guarantee reimbursement from DMAP for up to a 30-day supply of drugs or the full prescription for Schedule II drugs. DMAP does not intend to file this rule permanently.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0151

Pharmacy Payments During MMIS Conversion Week

(1) Providers verify new client eligibility as defined by clients who show no eligibility in the Point-of-Sale System (POS). During the specific dates of November 28, 2008 through December 8, 2008, otherwise known as “MMIS Conversion Week,” DMAP providers will verify new client eligibility by means of one or more of the following:

(a) By retaining a photocopy of the client’s December Medical Care ID (DMAP 1417 — old style, letter-sized) or Temporary Medical Care ID (DMAP 1086);

(b) By making a printout of the client’s eligibility information from First Health’s AIS Web site at: <https://oregon.fhsc.com/>. Specifically, providers will be required to capture the following data elements:

- (A) The client’s Prime Identification Number;
- (B) The Date of Service (DOS);
- (C) The client’s Date of Birth (DOB);
- (D) The client’s dates of eligibility;

(c) By calling one of the following entities and obtaining proof of eligibility by fax to the provider:

(A) First Health Services at: 800-344-9180;

(B) DMAP Client Services, during normal business hours at: 800-273-0557;

(C) DMAP Provider Services, during normal business hours at: 800-336-6016.

(2) Providers fill prescriptions:

(a) To ensure that clients receive needed prescriptions during the MMIS Conversion Week, providers will fill up to 30-day supply or the full Schedule II prescription for eligible clients not in the Point of Sale (POS) system.

(3) DMAP will reimburse providers for dispensing drugs on the service date and submitting the claims after Dec. 8, 2008, providing they adequately perform the services described in (1) through (2) of this rule, between November 28, 2008 and December 8, 2008; DMAP will reimburse only those pharmacies who are licensed to provide pharmacy services by the Oregon Board of Pharmacy on date(s) of service(s).

(4) This reimbursement mechanism does not apply to clients who are only eligible for Citizen Alien Waived Emergent Medical (CAWEM) benefits as CAWEM does provide prescription benefits.

Stat. Auth.: ORS 409.010, 409.025, 409.040, 409.050, 409.110 & 414.065

Stats. Implemented: ORS 414.065

Hist.: DMAP 33-2008(Temp), f. 10-15-08, cert. ef. 11-14-08 thru 12-8-08

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Department of Human Services, Public Health Division Chapter 333

Rule Caption: Abbreviated Certificate of Need Review Process for a New Oregon State Hospital Facility.

Adm. Order No.: PH 15-2008

Filed with Sec. of State: 10-7-2008

Certified to be Effective: 10-7-08

Notice Publication Date: 9-1-2008

Rules Amended: 333-560-0010

Subject: The Oregon Department of Human Services, Public Health Division s permanently amending OAR 333-560-0010 to allow a new Oregon State Hospital facility to proceed under an abbreviated Certificate of Need review process with a waiver of the application fee.

Rules Coordinator: Brittany Sande—(971) 673-1291

333-560-0010

Abbreviated Certificate of Need Review for Specific Projects

The following types of projects are eligible for abbreviated review:

(1) The establishment of new health services or new facilities which, based on documentation submitted by the applicant and found acceptable by the Division, will predominantly or exclusively service medically indigent patients:

(a) Such documentation should include any admissions policies or needs tests to be used by the applicant in determining the appropriateness of admissions. Documentation should also include information on projected revenues for the facility or service, including the sources of such revenues;

(b) If the facility or service, in the future, wishes to provide services to persons who are not medically indigent, either because of a change of ownership or for other reasons, the applicant must submit a new letter of intent detailing the proposed changes in the population to be served. The Division may consider such a change to constitute the establishment of a new health service subject to review, if it concludes that the patients to be served will no longer be predominantly medically indigent, and if it concludes that there will be a substantial impact on the cost of patient care;

(c) For the purposes of this section, persons will be considered to be medically indigent if they are uninsured by either public or private insurers or payers for the types of services being proposed and if their household or family income is equal to or less than 200 percent of the poverty income established in federal regulations. Except for projects involving long-term care facilities or services, persons will also be considered to be medically indigent if they are eligible for Medicaid services.

(2) Partnerships or joint ventures between hospitals/health systems and existing non-hospital-based, long-term care facilities neither of which is owned or controlled by the same entity, when all of the following criteria are met:

(a) The project does not result in a net increase in licensed long-term care beds in the service area. In this context “service area” has the same meaning as it is given in OAR 333-610-0030(1);

(b) The partnership or joint venture is for a minimum of two years and is terminable only for cause. As used in this rule, the term “partnership” is

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intended to be defined broadly, so that it covers collaboration beyond just a legal partnership including, but not limited to, a jointly owned corporation or a limited liability corporation. Notwithstanding OAR 333-550-0010(3)(a), if the beds operated under the partnership or joint venture are proposed to be sold or otherwise transferred, the transfer shall be subject to the full review process detailed in division 570 of this chapter and to the application and review criteria established in division 580, or if applicable, an expedited review under this chapter. If as part of the partnership or joint venture, conversion of existing space within a hospital building occurred, expedited review cannot later be sought under 333-560-0110. If the beds operated under the partnership or joint venture are to be relocated back to the non-hospital-based, long-term care facility the bed relocation is eligible for an abbreviated review;

(c) The hospital/health system and the long-term care facility can demonstrate to the satisfaction of the Division that projected per diem inpatient routine service costs in the partnership or joint venture setting (calculated in conformance with Medicare cost report parameters) will not exceed 125 percent of the per diem routine service cost limitation computed by the fiscal intermediary for freestanding skilled nursing facilities in its urban or rural location during the first two years of operation. The routine cost limitation may be adjusted, as appropriate, to allow for reasonable inflation as measured by the DRI (HCFA) McGraw Hill Nursing Facility Market Basket Index;

(d) The applicant shall submit a completed copy of Forms CN-3 and CN-11. The applicant shall also submit a summary for the first two years of operation of projected revenue, expenses, operating income, non-operating revenue and net income with and without the project;

(e) Projects approved under OAR 333-560-0010(2) are subject to the full review process detailed in division 570 of this chapter and to the application and review criteria established in division 580, or, if applicable, an expedited review under this chapter, if the cost limitation required under subsection (2)(c) of this rule is not maintained for the first two years of operation.

(3) A project involving the relicensing of long-term care beds by a facility participating in a Seniors and People with Disabilities Division approved Nursing Home Vision 2000 Project ("Vision 2000 Project"), if all of the following conditions are met:

(a) The number of long-term care beds to be added by the facility does not exceed the number of long-term care beds delicensed by the facility because of participation in the Vision 2000 project; and

(b) Relicensure of beds to be added will occur within five years of the date that the first bed or beds were delicensed at the facility because of participation in the Vision 2000 Project; and

(c) Notwithstanding OAR 333-565-0000(4), an application fee of \$1,500 is paid;

(d) The following applies to Seniors and People with Disabilities Division approved Vision 2000 Projects:

(A) Notwithstanding any contrary provision in OAR chapter 333, during the five-year period referred to in subsection (3)(b) of this rule, the delicensed beds will be counted as existing long-term care beds for determining the need for additional long-term care beds in the geographical service area under division 610 of this chapter. The delicensed beds will not be considered existing long-term care beds for the purpose of 333-560-0110 and 333-560-0120;

(B) Notwithstanding paragraph (3)(d)(A) of this rule, if a Vision 2000 Project participating facility notifies the Division in writing of its intention not to seek relicensure of some or all the beds within the five-year period, these beds will not be counted as existing long-term care beds for determining the need for additional long-term care beds in the geographical service area under division 610 of this chapter, and the facility will be foreclosed from seeking the addition of these beds under section (3) of this rule;

(C) The sale of a Vision 2000 Project participating facility does not affect the ability of the facility to seek the addition of beds under section (3) of this rule as long as the other requirements of the rule are met.

(4) Development of a freestanding hospice facility, as that term is used in OAR 333-500-0010(1)(a), if all the following conditions are met:

(a) The number of freestanding hospice facilities that can be approved under this section is limited to a total of six. Facilities approved under this section will be required to report the information specified in subsection (4)(e) of this rule to the Certificate of Need Program which will allow it to monitor the effect of these facilities and to develop appropriate rules by which to judge the need for any future facilities;

(b) Projects will be considered for abbreviated review in the order in which a completed letter of intent is received for the project. The provisions of OAR 333-560-0030 shall not apply;

(c) The applicant shall submit a completed copy of Forms CN-1 and CN-3;

(d) The applicant shall submit a population-based needs assessment for the proposed facility. The needs assessment shall include, but not be limited to, the following elements:

(A) A discussion of why this facility is needed in the geographic area served by the applicant. This discussion shall take into account the actual and projected death rates by age and sex; an estimate of how many of those individuals would have been eligible for hospice services and the historical utilization of hospice services; an estimate of how many of those individuals would have benefited from inpatient hospice care and the historical utilization of inpatient care for hospice patients; the applicant's market share of hospice services and any anticipated changes in that market share; the effect of the proposed facility on the utilization of inpatient care in all settings both by the patients served by the applicant and by other hospice providers in the geographic area (if any); projected population growth by age and sex for the area; and household composition, particularly the number of people living alone by age and sex. The discussion shall also include information about the availability of inpatient care in the geographic area, an explanation of why it is preferable for patients to receive care in the proposed facility as opposed to other possible settings and an explanation of how the availability of the proposed facility will impact the continuum of care available in the geographic area; and

(B) A projected income statement for the first five years of operation of the facility accompanied by a narrative explaining the assumptions underlying the projections. Information concerning payer source, number of admissions, numbers of deaths and discharges, and length of stay shall be provided. If the facility is to provide residential care beds, such information shall also be provided for those beds. The income statement shall follow the format used by Form CN-5.

(e) The applicant agrees to provide the following information to the Certificate of Need Program on an annual basis for a period of five years after the facility begins operation:

(A) An income statement accompanied by a narrative discussion of the information provided. Information concerning payer source, number of admissions, numbers of deaths and discharges, and length of stay shall be provided. If the facility provides residential care beds, such information shall also be provided for those beds. The income statement shall follow the format used by Form CN-5;

(B) A statement with supporting data discussing the impact on the age adjusted rates of nursing home and hospital deaths in the geographic area served by the applicant; the impact on the rate of hospice admissions to nursing homes and hospitals in the area; and the impact on the rate of deaths of hospice patients in nursing homes and hospitals; and

(C) A statement discussing data collected from a satisfaction survey tool which measures whether families and other persons closely associated with the patient were satisfied with the different aspects of their loved one's end-of-life care and the environment provided by the facility.

(5) Development of a new Oregon State Hospital facility.

(a) A project for a new Oregon State Hospital is not required to meet any review criteria and notwithstanding OAR 333-565-0000(4) an application fee is not required.

(b) Notwithstanding OAR 333-560-0020(5), the granting of abbreviated review may be rescinded following an informal hearing only if the Division finds that the project is not a new Oregon State Hospital facility.

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

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

Stat. Auth.: ORS 431.120(6) & 442.315

Stats. Implemented: ORS 431.120(6) & 442.315

Hist.: HD 13-1994, f. & cert. ef. 4-22-94; HD 14-1994(Temp), f. & cert. ef. 4-28-94; HD 9-1995(Temp), f. & cert. ef. 11-14-95; HD 3-1997, f. & cert. ef. 2-3-97; OHD 5-1998, f. & cert. ef. 6-16-98; OHD 11-1998, f. & cert. ef. 10-22-98; OHD 10-2002, f. 7-3-02 cert. ef. 7-5-02; PH 10-2003(Temp), f. & cert. ef. 7-31-03 thru 1-15-04; PH 2-2004, f. & cert. ef. 1-16-04; PH 15-2008, f. & cert. ef. 10-7-08

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

Rule Caption: Inactive and Provisional Licenses for Residential Care and Assisted Living Facilities.

Adm. Order No.: SPD 12-2008(Temp)

Filed with Sec. of State: 9-18-2008

Certified to be Effective: 9-18-08 thru 3-17-09

Notice Publication Date:

Rules Adopted: 411-054-0125

Subject: The Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is temporarily adopting OAR 411-054-0125 relating to inactive and provisional licenses for residential care and assisted living facilities.

Rules Coordinator: Christina Hartman—(503) 945-6398

ADMINISTRATIVE RULES

411-054-0125

Inactive and Provisional Licenses

(1) Notwithstanding any other rule regarding the licensure of residential care or assisted living facilities, SPD may inactivate a license in accordance with this rule and under any of the following circumstances or where the occurrence of any such circumstance is imminent:

- (a) Abandonment of facility operation;
- (b) The licensee is no longer in physical possession of the premises;
- (c) The licensee no longer has operational control of the facility;
- (d) Appointment of a receiver, trustee or other fiduciary by court order; or

(e) Mutual consent and agreement of the licensee and SPD to inactivate.

(2) SPD shall notify the licensee of the change in license status through personal communication with the licensee or representative of the licensee when possible, and by written notice sent by registered or certified mail to the registered agent, if any, or to the last known address of the licensee on file with SPD.

(3) The inactive license shall be effective immediately upon issuance, or at a later date, or upon the occurrence of any subsequent event as set forth in the order.

(4) The inactive licensee may appeal SPD's decision to change the license to inactive status for any of the reasons set forth in sections (1)(a) through (1)(d) of this rule by requesting an administrative review. The request for an administrative review must be made in writing to the Assistant Director of SPD, or the Assistant Director's designee, and must be made within 14 calendar days from the date of the inactivation of the license. The inactive licensee must include along with the request for an administrative review any information the inactive licensee wants to have considered in the administrative review.

(5) Within 10 working days from the date of SPD's receipt of a timely request, the Assistant Director of SPD, or the Assistant Director's designee shall review the file and issue a decision. The timeline to issue a decision may be extended with the consent of the inactive licensee. If a provisional license for the operation of the facility has been issued by SPD pursuant to this rule, the provisional licensee, as defined in section (10) of this rule, shall be a party to the administrative review and any contested case hearing.

(6) If the inactive licensee is dissatisfied with the decision following an administrative review, the inactive licensee may request a contested case hearing. A request for a contested case hearing must be made in writing within 14 calendar days from the date of the decision. The inactive licensee may request a contested case hearing without first seeking administrative review. The request for a contested case hearing must be made in writing within 14 calendar days from the date the license was inactivated. The inactive licensee must state in the request for a contested case hearing that the inactive licensee is waiving the right to an administrative review. A contested case hearing shall be scheduled as soon as practicable. The contested case hearing shall be in accordance with ORS chapter 183. The license remains inactivated pending the decision of the contested case hearing.

(7) The inactive status of the license shall continue for the duration of the original license. However, if the circumstances for which SPD inactivated the license are abated prior to the expiration of the license, the inactive licensee may request that SPD reactivate the license. The inactive licensee must provide any provisional licensee a copy of the request to reactivate the license. The inactive licensee must include with the request sufficient supporting documents or other proof of the abatement of the circumstances and justify the request to reactivate the license by demonstrating the licensee's present ability to operate the facility in compliance with the rules in OAR chapter 411, division 054.

(8) If the term of the inactive license expires before the circumstances requiring inactivation have been abated, the inactive licensee may submit an application for renewal of the license pursuant to OAR 411-054-0013. A decision to renew the license shall be in accordance with OAR 411-054-0130. The licensee is entitled to a contested case hearing under ORS chapter 183 if SPD denies renewal.

(9) For purposes of any Medicaid provider contract for the provision of residential care or assisted living facility services, an inactive license shall not be considered a valid license or certificate that is required for the contractor to perform work under the contract and as such, is a basis for termination of the Medicaid contract pursuant to the terms of the contract. SPD's written notice to the licensee of inactive license status shall constitute SPD's notice of termination of the Medicaid contract effective as of the date of the inactive license.

(10) Notwithstanding any other rule regarding the licensure of residential care or assisted living facilities, if SPD takes action to inactivate or suspend a facility license, SPD may issue a provisional license to a "provisional licensee", for the protection of the health, safety or welfare of the residents. For purposes of this rule, a "provisional licensee" means any person or entity:

- (a) Having good character or reputation;
- (b) Meeting the criminal history check requirements in OAR chapter 407, division 007;

- (c) Eligible for receipt of federal Medicaid payments;
- (d) Authorized to conduct business in the state of Oregon;

(e) Familiar with, that agrees to abide by, Oregon laws and administrative rules governing the operation of residential care or assisted living facilities, as applicable;

(f) Demonstrating prior experience acceptable to SPD evidencing the necessary skills and ability to manage and safely operate a licensed residential care or assisted living facility for the welfare and protection of the residents. SPD shall consider evidence including, but not limited to, prior licensing of the applicant, in good standing, in Oregon or any other state for the operation of comparable residential care or assisted living facilities; and

- (g) Demonstrating financial ability to operate a facility.

(11) Applicants for a provisional license must submit the information required in OAR 411-054-0013 and a licensing fee of \$60.

(12) SPD may grant a provisional license for a period of time up to the remaining term of the original license for the subject facility. However, if there are less than 60 calendar days remaining on the term of the original license, SPD may grant a provisional license for up to 60 calendar days beyond the date of expiration of the original license.

(a) At least 60 calendar days prior to the expiration of the provisional license, the provisional licensee must notify SPD of the facility's plan for continued operation, sale or closure. If the provisional licensee intends to continue its operation of the facility, or the facility is to be sold, the provisional licensee or the proposed buyer must submit an application for initial licensure pursuant to OAR 411-054-0013.

(b) If the provisional licensee intends to surrender the provisional license prior to its expiration, the provisional licensee must notify SPD at least 60 calendar days prior to the date of surrender.

(c) If at any time during the period of an inactive license or provisional license for the facility, the inactive license holder of the facility requests reactivation of the license or submits an application for renewal of a license for the facility, SPD shall hold in abeyance any other application for licensure of the subject facility until final action is taken on the inactive licensee's application. Both the inactive and provisional license shall continue until SPD takes final action on the inactive licensee's application.

(d) If the inactive license is reactivated, any provisional license for the facility shall terminate upon reactivation.

(13) The issuance of a provisional license shall be at the sole discretion of SPD. If the application for a provisional license is denied, the applicant may request an administrative review. The request for an administrative review must be made in writing to the Assistant Director of SPD, or the Assistant Director's designee, within 14 calendar days from the date of the notice denying a provisional license. The applicant must include along with the request, any information the applicant wants to have considered in the administrative review. Within 10 working days from the date of SPD's receipt of a timely request, the Assistant Director of SPD, or the Assistant Director's designee shall review the file and issue a decision. The timeline to issue a decision may be extended with the consent of the applicant.

(14) If the applicant is dissatisfied with the decision following an administrative review, the applicant may request a contested case hearing. A request for a contested case hearing must be made in writing within 14 calendar days from the date of the decision. The applicant may request a contested case hearing without first seeking an administrative review. The request must be made in writing within 14 calendar days from the date of the order denying the provisional license. The applicant must state in the request for a contested case hearing that the applicant is waiving the right to an administrative review. A contested case hearing shall be scheduled as soon as practicable. The contested case hearing shall be in accordance with ORS chapter 183.

(15) At the request of either an inactive license holder of the subject facility during the period of an inactive license, or a suspended licensee, a copy of the provisional license application or any other license application, subject to any applicable laws of confidentiality, affecting the subject facility, shall be provided to the inactive or suspended licensee.

(16) Nothing in this rule is intended to preclude SPD from taking other regulatory action on either an inactive licensee or provisional licensee for a violation of the licensing regulations in OAR chapter 411, division 054.

Stat. Auth.: ORS 410.070 & 443.450
Stats. Implemented: ORS 443.400 to 443.455 & 443.991
Hist.: SPD 12-2008(Temp), f. & cert. ef. 9-18-08 thru 3-17-09

Rule Caption: In-Home Services, Independent Choices Program.

Adm. Order No.: SPD 13-2008

Filed with Sec. of State: 9-24-2008

Certified to be Effective: 9-24-08

ADMINISTRATIVE RULES

Notice Publication Date: 8-1-2008

Rules Adopted: 411-030-0100

Rules Amended: 411-030-0020, 411-030-0040, 411-030-0050, 411-030-0070

Rules Repealed: 411-036-0000, 411-036-0010, 411-036-0020, 411-036-0030, 411-036-0040, 411-036-0045, 411-036-0050, 411-036-0060, 411-036-0070, 411-036-0080, 411-036-0090, 411-036-0100, 411-036-0110, 411-036-0120, 411-036-0130, 411-036-0140, 411-030-0020(T), 411-030-0040(T), 411-030-0050(T), 411-030-0070(T), 411-030-0100(T)

Subject: The Department of Human Services, Seniors and People with Disabilities Division (SPD) is permanently repealing the Independent Choices Program (ICP) demonstration project rules in OAR chapter 411, division 036 and permanently adopting and amending other various in-home services rules in OAR chapter 411, division 030 to clarify how they apply to ICP and to reflect that the ICP is now a permanent statewide in-home services program with an enrollment capacity of 2,600 participants.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-030-0020

Definitions

As used in these rules:

(1) "Activities of Daily Living (ADL)" means those personal, functional activities required by an individual for continued well-being, which are essential for health and safety. Activities consist of eating, dressing/grooming, bathing/personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel and bladder management), and cognition/behavior as defined in OAR 411-015-0006.

(2) "Architectural Modifications" means any service leading to the alteration of the structure of a dwelling to meet a specific service need of the eligible individual.

(3) "Area Agency on Aging (AAA)" means the Department of Human Services designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to seniors or people with disabilities in a planning and service area. For purposes of these rules, the term Area Agency on Aging is inclusive of both Type A and Type B Area Agencies on Aging as defined in ORS 410.040 and described in ORS 410.210 through 410.300.

(4) "Assistive Devices" means any category of durable medical equipment, mechanical apparatus, electrical appliance, or instrument of technology used to assist and enhance an individual's independence in performing any activity of daily living. This definition includes the use of service animals, general household items or furniture to assist the individual.

(5) "Business Days" means Monday through Friday and excludes Saturdays, Sundays and state or federal holidays.

(6) "Case Manager" means a Department of Human Services or Area Agency on Aging employee who assesses the service needs of an applicant, determines eligibility, and offers service choices to the eligible individual. The case manager authorizes and implements the service plan, and monitors the services delivered.

(7) "Client" or "Client-Employer" means the individual eligible for in-home services. "Individual" is synonymous with client.

(8) "Client Assessment and Planning System (CA/PS)" is a single entry data system used for completing a comprehensive and holistic assessment, surveying the individual's physical, mental and social functioning, and identifying risk factors, individual choices and preferences, and the status of service needs. The CA/PS documents the level of need and calculates the individual's service priority level in accordance with OAR chapter 411, division 015, calculates the service payment rates, and accommodates individual participation in service planning.

(9) "Client-Employed Provider Program (CEP)" refers to the program wherein the provider is directly employed by the client and provides either hourly or live-in services. In some aspects of the employer and employee relationship, the Department of Human Services acts as an agent for the client-employer. These functions are clearly described in OAR 411-031-0040.

(10) "Contingency Fund" a monetary amount set aside in the Independent Choices Program service budget that continues month to month if approved by the case manager, to purchase identified items that substitute for personal assistance.

(11) "Contracted In-Home Care Agency" means an incorporated entity or equivalent, licensed in accordance with OAR chapter 333, division 536 that provides hourly contracted in-home services to individuals served by the Department of Human Services or Area Agency on Aging.

(12) "Cost Effective" means being responsible and accountable with Department of Human Services resources. This is accomplished by offer-

ing less costly alternatives when providing choices that adequately meet an individual's service needs. Those choices include other programs available from the Department, the utilization of assistive devices, natural supports, architectural modifications and alternative service resources (defined in OAR 411-015-0005). Less costly alternatives may include resources not paid for by the Department.

(13) "Department" or "DHS" means the Department of Human Services.

(14) "Discretionary Fund" means a monetary amount set aside in the Independent Choices Program service budget to purchase items not otherwise delineated in the monthly service budget or agreed to be savings for items not traditionally covered under waived services. Discretionary funds must be expended at the end of each month.

(15) "Disenrollment" means either voluntary or involuntary termination of the participant from the Independent Choices Program.

(16) "Employee Provider" means a worker who provides services to, and is a paid provider for, a participant in the Independent Choices Program.

(17) "Employment Relationship" means the relationship involving the employee provider and the participant as employee and employer.

(18) "Exception" means an approval for payment of a service plan granted to a specific individual in their current residence (or in the proposed residence identified in the exception request) that exceeds the CA/PS assessed service payment levels for individuals residing in community-based care facilities or the maximum hours of service as described in OAR 411-030-0070 for individuals residing in their own homes. The approval is based on the service needs of the individual and is contingent upon the service plan meeting the requirements in 411-027-0020, 411-027-0025 and 411-027-0050. The term "exception" is synonymous with "exceptional rate" or "exceptional payment."

(19) "FICA" is the acronym for the Social Security payroll taxes collected under authority of the Federal Insurance Contributions Act.

(20) "Financial Accountability" refers to guidance and oversight which act as fiscal safeguards to identify budget problems on a timely basis and allow corrective action to be taken to protect health and welfare of individuals.

(21) "FUTA" is the acronym for Federal Unemployment Tax Assessment which is a United States payroll (or employment) tax imposed by the federal government on both employees and employers.

(22) "Homecare Worker (HCW)" means a provider, as described in OAR 411-031-0040, that provides either hourly or live-in services to eligible individuals and is employed by the individual. The term homecare worker includes client-employed providers in the Spousal Pay and Oregon Project Independence Programs. It also includes client-employed providers that provide state plan personal care services to seniors and people with physical disabilities. The term does not include Independent Choices Program providers or personal care attendants enrolled through Developmental Disability Services or the Addictions and Mental Health Division.

(23) "Hourly Services" means the in-home services, including activities of daily living and self-management tasks, that are provided at regularly scheduled times.

(24) "Independent Choices Program (ICP)" means a self directed in-home services program in which the participant is given a cash benefit to purchase goods and services identified in a service plan and prior approved by the Seniors and People with Disabilities Division or Area Agency on Aging case manager.

(25) "Individualized Back-Up Plan" means a plan incorporated into the Independent Choices Program service plan to address critical contingencies or incidents that pose a risk or harm to the participant's health and welfare.

(26) "In-Home Services" means those activities of daily living and self-management tasks that assist an individual to stay in his or her own home.

(27) "Liability" refers to the dollar amount individuals with excess income must contribute to the cost of service pursuant to OAR 461-160-0610 and 461-160-0620.

(28) "Live-In Services" means those Client-Employed Provider Program services provided when an individual requires activities of daily living, self-management tasks and twenty-four hour availability. Time spent by any live-in employee doing self-management and twenty-four hour availability are exempt from federal and state minimum wage and overtime requirements. To ensure continuity of service for the individual, live-in service plans must include at least one homecare worker providing twenty-four hour availability for a minimum of five days in a calendar week.

(29) "Natural Supports" or "Natural Support System" means the resources available to an individual from their relatives, friends, significant others, neighbors, roommates and the community. Services provided by natural supports are resources that are not paid for by the Department of Human Services.

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(30) "Oregon Project Independence (OPI)" means the program of in-home services described in OAR chapter 411, division 032.

(31) "Participant" means an individual eligible for Independent Choices Program services.

(32) "Provider" means the individual who actually renders the service.

(33) "Rate Schedule" means the rate schedule published by the Seniors and People with Disabilities Division at <http://www.oregon.gov/DHS/spd/provtools/rateschedule.pdf>.

(34) "Representative" is a person either appointed by the individual to participate in service planning on their behalf or the individual's natural support with longstanding involvement in assuring the individual's health, safety and welfare. There are additional responsibilities for the Independent Choices Program representatives as described in OAR 411-030-0100. An ICP representative cannot be a paid employee provider regardless of relationship to the participant.

(35) "Self-Management" or "Instrumental Activities of Daily Living (IADL)" means those activities, other than activities of daily living, required by an individual to continue independent living. The definitions and parameters for assessing needs in self-management tasks are identified in OAR 411-015-0007.

(36) "Service Budget" means the participant's plan for the distribution of authorized funds that are under the control and direction of the participant within the Independent Choices Program. The service budget is a required component of the service plan.

(37) "Service Need" means the assistance an individual requires from another person for those functions or activities identified in OAR 411-015-0006 and 411-015-0007.

(38) "SPD" or "Division" means the Seniors and People with Disabilities Division, within the Department of Human Services.

(39) "SUTA" is the acronym for State Unemployment Tax Assessment. State unemployment taxes are paid by employers to finance the unemployment benefit system that exists in each state.

(40) "Twenty-Four Hour Availability" means the availability and responsibility of an employee to meet activities of daily living and self-management needs of an eligible individual as required by that person over a 24 hour period. These services are provided by a live-in employee and are exempt from federal and state minimum wage and overtime requirements.

(41) "Waivered Services" means services provided through Oregon's Medicaid Home and Community-Based Services Waiver under the authority of section 1915 (c) of the Social Security Act, that allows the state to provide home and community-based services to eligible individuals in place of nursing facility services. Waivered services include in-home services, residential care facility services, assisted living facility services, adult foster care services, home-delivered meals (when provided in conjunction with in-home services), specialized living services, Spousal Pay Program services and adult day services.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 5-1983, f. 6-7-83, ef. 7-1-83; SSD 3-1985, f. & ef. 4-1-85; SSD 5-1987, f. & ef. 7-1-87; SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; SSD 6-1994, f. & cert. ef. 11-15-94; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03; SPD 18-2003(Temp), f. & cert. ef. 12-11-03 thru 6-7-04; SPD 15-2004, f. 5-28-04, cert. ef. 6-7-04; SPD 18-2005(Temp), f. 12-20-05, cert. ef. 12-21-05 thru 6-1-06; SPD 20-2006, f. 5-26-06, cert. ef. 6-1-06; SPD 3-2007(Temp), f. 4-11-07, cert. ef. 5-1-07 thru 10-28-07; SPD 17-2007, f. 10-26-07, cert. ef. 10-28-07; SPD 4-2008(Temp), f. & cert. ef. 4-1-08 thru 9-24-08; SPD 13-2008, f. & cert. ef. 9-24-08

411-030-0040

Eligibility Criteria

(1) In-home services may be provided to those individuals who meet the established priorities for service as described in OAR chapter 411, division 015 and have been assessed to be in need of a service provided in chapter 411, division 030. Payments for in-home services are not intended to replace the resources available to an individual from their natural support system. Payment by the Department can be considered or authorized only when such resources are not available, not sufficient, or cannot be developed to adequately meet the needs of the individual. An individual whose service needs are met by their natural supports shall not be eligible for in-home services. Service plans must be based upon the least costly means of providing adequate care.

(2) Individuals served under the Home and Community-Based Services Waivered In-Home Services Program or the Independent Choices Program must meet the established priorities for service as described in OAR chapter 411, division 015 and must:

(a) Be current recipients of OSIPM;

(b) Reside in a living arrangement in which in-home services may be provided as described in OAR 411-030-0033; and

(c) Be eighteen years of age or older.

(3) To be eligible for the Home and Community-Based Services Waivered In-Home Services Program, an individual must employ an enrolled homemaker worker or contracted in-home care agency to provide

those services prior authorized and paid by the Department. Participants of the Independent Choices Program must employ an employee provider or contracted in-home care agency.

(a) Initial eligibility for waived in-home services or the Independent Choices Program does not begin until a service plan has been authorized. The service plan must identify the provider who delivers the authorized services, and must include the date when the provision of services begins and the maximum number of hours authorized.

(b) If, for any reason, the employment relationship between the individual and provider is discontinued, an enrolled homemaker worker or contracted in-home care agency must be employed within 14 business days for the individual to remain eligible for the program. Participants of the Independent Choices Program must employ an employee provider within 14 business days.

(c) An eligible individual who has been receiving waived in-home services and temporarily enters a nursing facility or medical institution must employ an enrolled homemaker worker or contracted in-home care agency within 14 business days of discharge from the facility or institution. Participants of the Independent Choices Program must employ an employee provider within 14 business days of discharge.

(4) Additional eligibility criteria for in-home services exist for persons eligible for:

(a) Oregon Project Independence as described in OAR chapter 411, division 032;

(b) Independent Choices Program as described in OAR 411-030-0100; or

(c) Spousal Pay Program as described in OAR 411-030-0080.

(5) Residents of licensed community-based care facilities, nursing facilities, prisons, hospitals and other institutions that provide assistance with activities of daily living are not eligible for in-home services.

(6) Individuals with excess income must contribute to the cost of service pursuant to OAR 461-160-0610 and 461-160-0620.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 3-1985, f. & ef. 4-1-85; SSD 4-1993, f. 4-30-93, cert. ef. 6-12-93, Renumbered from 411-030-0001; SPD 2-2003(Temp), f. 1-31-03, cert. ef. 2-1-03 thru 7-30-03; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03; SPD 18-2003(Temp), f. & cert. ef. 12-11-03 thru 6-7-04; SPD 15-2004, f. 5-28-04, cert. ef. 6-7-04; SPD 18-2005(Temp), f. 12-20-05, cert. ef. 12-21-05 thru 6-1-06; SPD 1-2006(Temp), f. & cert. ef. 1-13-06 thru 6-1-06; SPD 20-2006, f. 5-26-06, cert. ef. 6-1-06; SPD 4-2008(Temp), f. & cert. ef. 4-1-08 thru 9-24-08; SPD 13-2008, f. & cert. ef. 9-24-08

411-030-0050

Case Management

(1) ASSESSMENT.

(a) The assessment process must identify the individual's ability to perform activities of daily living, self-management tasks, and determine the individual's ability to address health and safety concerns. The case manager must conduct this assessment in accordance with standards of practices established by SPD in OAR 411-015-0008.

(b) The assessment must be conducted by a case manager or other qualified SPD or Area Agency on Aging representative in the home of the eligible individual, no less than annually, with a standardized assessment tool approved by SPD.

(2) CONTRACT RN ASSESSMENT.

(a) Contract RN services are prior authorized by a SPD or Area Agency on Aging case manager to provide:

(A) Nursing assessment and reassessment as appropriate;

(B) Medication review;

(C) Assignment of basic care tasks to a homemaker worker or employee provider; and

(D) Delegation of special tasks of nursing care to a homemaker worker or employee provider.

(b) Indicators of the need for RN assessment and monitoring include:

(A) Full assistance in cognition;

(B) Medical instability;

(C) Potential for skin breakdown or decubitus ulcer;

(D) Multiple health problems or frailty with a strong probability of deterioration; or

(E) Potential for increased self-care, but instruction and support for the individual are needed to reach goals.

(c) Maximum hours for each contracted RN service shall be established by SPD.

(3) SERVICE PLAN.

(a) The client and case manager, with the assistance of other involved individuals, must consider in-home service options as well as assistive devices, architectural modifications, and other community-based care resources to meet the service needs identified in the assessment process.

(b) The case manager has responsibility for determining eligibility for specific services, presenting alternatives to the individual, identifying risks,

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and assessing the cost effectiveness of the plan. The case manager must monitor the plan and make adjustments as needed.

(c) The client, or their representative, has the responsibility to choose and assist in developing less costly service alternatives, including the Client-Employed Provider Program and contracted in-home care agency services.

(d) The service plan payment must be considered full payment for the services rendered under Title XIX. Under no circumstances is the employee to demand or receive additional payment for these Title XIX-covered services from the client-employer or any other source. Additional payment to homecare workers or Independent Choices Program employee providers for the same services covered by Oregon's Title XIX Home and Community-Based Services Waiver or Spousal Pay Programs is prohibited.

(e) For the Independent Choices Program, the service plan must include the service budget as per OAR 411-030-0100.

(f) SPD may not authorize a hardship shelter allowance associated with employing a live-in provider on or after June 1, 2006.

(g) Individuals eligible for and authorized to receive a hardship shelter allowance before June 1, 2006 may continue to receive a hardship shelter allowance on or after June 1, 2006 at the rate established by SPD if one of the following conditions is met:

(A) The individual shall be forced to move from their current dwelling and the individual's current average monthly rent or mortgage costs exceed current OSIP and OSIPM standards for a one-person need group as outlined in OAR 461-155-0250; or

(B) Service costs significantly increase as a result of the individual being unable to provide living quarters for a necessary live-in provider.

Stat. Auth.: ORS 409.050, 410.070 & 410.900

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 5-1983, f. 6-7-83, ef. 7-1-83; SSD 3-1985, f. & ef. 4-1-85; SSD 12-1985(Temp), f. & ef. 9-19-85; SSD 16-1985, f. 12-31-85, ef. 1-1-86; SSD 4-1987(Temp), f. & ef. 7-1-87; SSD 1-1988, f. & cert. ef. 3-1-88; SSD 6-1988, f. & cert. ef. 7-1-88; SSD 9-1989, f. 6-30-89, cert. ef. 7-1-89; SSD 11-1989(Temp), f. & cert. ef. 9-1-89; SSD 18-1989, f. 12-29-89, cert. ef. 1-1-90; SSD 7-1990(Temp), f. & cert. ef. 3-1-90; SSD 16-1990, f. & cert. ef. 8-20-90; SSD 1-1992, f. & cert. ef. 2-21-92; SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93, Renumbered from 411-030-0022; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03; SPD 15-2004, f. 5-28-04, cert. ef. 6-7-04; SPD 18-2005(Temp), f. 12-20-05, cert. ef. 12-21-05 thru 6-1-06; SPD 20-2006, f. 5-26-06, cert. ef. 6-1-06; SPD 4-2008(Temp), f. & cert. ef. 4-1-08 thru 9-24-08; SPD 13-2008, f. & cert. ef. 9-24-08

411-030-0070

Maximum Hours of Service

(1) LEVELS OF ASSISTANCE FOR DETERMINING SERVICE PLAN HOURS.

(a) "Minimal Assistance" means the individual is able to perform the majority of an activity, but requires some assistance from another person.

(b) "Substantial Assistance" means the individual can perform only a small portion of the tasks that comprise the activity without assistance from another person.

(c) "Full Assistance" means the individual needs assistance from another person through all phases of the activity, every time the activity is attempted.

(2) MAXIMUM MONTHLY HOURS FOR ACTIVITIES OF DAILY LIVING.

(a) The planning process uses the following limitations for time allotments for ADL tasks. Hours authorized are based on the service needs of the individual. Case managers may authorize up to the amount of hours identified in these assistance levels (minimal, substantial or full).

(A) Eating:

- (i) Minimal assistance — 5 hours;
- (ii) Substantial assistance — 20 hours;
- (iii) Full assistance — 30 hours;

(B) Dressing/Grooming:

- (i) Minimal assistance — 5 hours;
- (ii) Substantial assistance — 15 hours;
- (iii) Full assistance — 20 hours;

(C) Bathing and Personal Hygiene:

- (i) Minimal assistance — 10 hours;
- (ii) Substantial assistance — 15 hours;
- (iii) Full assistance — 25 hours;

(D) Mobility:

- (i) Minimal assistance — 10 hours;
- (ii) Substantial assistance — 15 hours;
- (iii) Full assistance — 25 hours;

(E) Elimination (Toileting, Bowel and Bladder):

- (i) Minimal assistance — 10 hours;
- (ii) Substantial assistance — 20 hours;
- (iii) Full assistance — 25 hours;

(F) Cognition/Behavior:

- (i) Minimal assistance — 5 hours;
- (ii) Substantial assistance — 10 hours;
- (iii) Full assistance — 20 hours.

(b) Service plan hours for activities of daily living may only be authorized for an individual if the individual requires assistance (minimal, substantial or full assist) from another person in that activity of daily living as determined by a service assessment applying the parameters in OAR 411-015-0006.

(c) For households with two or more eligible individuals, each person's ADL service needs are considered separately. In accordance with section (3)(c) of this rule, authorization of self-management hours is limited for each additional individual in the home.

(d) Hours authorized for activities of daily living are paid at hourly rates in accordance with the rate schedule. The Independent Choices Program cash benefit is based on the hours authorized for ADLs paid at the hourly rates. Participants of the Independent Choices Program may determine their own employee provider pay rates.

(3) MAXIMUM HOURS FOR SELF MANAGEMENT TASKS.

(a) The planning process uses the following limitations for time allotments for all services. Hours authorized are based on the service needs of the individual. Case managers may authorize up to the amount of hours identified in these assistance levels (minimal, substantial or full).

(A) Medication and Oxygen Management:

- (i) Minimal assistance — 2 hours;
- (ii) Substantial assistance — 4 hours;
- (iii) Full assistance — 6 hours;

(B) Transportation or Escort Assistance:

- (i) Minimal assistance — 2 hours;
- (ii) Substantial assistance — 3 hours;
- (iii) Full assistance — 5 hours;

(C) Meal Preparation:

(i) Minimal assistance — breakfast — 4 hours, lunch — 4 hours, supper — 8 hours;

(ii) Substantial assistance — breakfast — 8 hours, lunch — 8 hours, supper — 16 hours;

(iii) Full assistance — breakfast — 12 hours, lunch — 12 hours, supper — 24 hours;

(D) Shopping:

- (i) Minimal assistance — 2 hours;
- (ii) Substantial assistance — 4 hours;
- (iii) Full assistance — 6 hours;

(E) Housecleaning:

- (i) Minimal assistance — 5 hours;
- (ii) Substantial assistance — 10 hours;
- (iii) Full assistance — 20 hours.

(b) Rates shall be paid in accordance with the rate schedule. When a live-in employee is present, these hours may be paid at less than minimum wage according to the Fair Labor Standards Act. The Independent Choices Program cash benefit is based on the hours authorized for self management tasks paid at the hourly rates. Participants of the Independent Choices Program may determine their own employee provider pay rates.

(c) When two or more individuals eligible for self-management task hours live in the same household, the assessed self-management need of each individual must be calculated. Payment shall be made for the highest of the allotments and a total of four additional self-management hours per month for each additional individual to allow for the specific self-management needs of the other individuals.

(d) Service plan hours for self-management tasks may only be authorized for an individual if the individual requires assistance (minimal, substantial or full assist) from another person in that self-management task as determined by a service assessment applying the parameters in OAR 411-015-0007.

(4) TWENTY-FOUR HOUR AVAILABILITY.

(a) Payment for twenty-four hour availability shall be authorized only when the client employs a live-in homecare worker or Independent Choices Program employee provider and requires this availability due to the following:

(A) The individual requires assistance with activities of daily living or self-management tasks at unpredictable times throughout most 24 hour periods; and

(B) The individual requires minimal, substantial, or full assistance with ambulation and requires assistance with transfer (as defined in OAR 411-015-0006); or

(C) The individual requires full assistance in transfer or elimination (as defined in OAR 411-015-0006); or

(D) The individual requires full assist in at least three of the eight components of cognition/behavior (as defined in OAR 411-015-0006).

(b) The number of hours allowed per month shall have the following maximums. Hours authorized are based on the service needs of the individual. Case managers may authorize up to the amount of hours identified in these assistance levels (minimal, substantial or full).

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(A) Minimal assistance — 60 hours. Minimal assistance hours may be authorized when an individual requires one of these assessed needs as defined in OAR 411-015-0006:

- (i) Full assist in cognition; or
- (ii) Full assist in toileting or bowel or bladder.

(B) Substantial assistance — 110 hours. Substantial assistance hours may be authorized when an individual requires these assessed needs as defined in OAR 411-015-0006:

- (i) Assist in transfer; and
- (ii) Assist in ambulation; and
- (iii) Full assist in cognition; or
- (iv) Full assist in toileting or bowel or bladder.

(C) Full assistance — 159 hours. Full assistance hours may be authorized when:

(i) The authorized provider cannot get at least five continuous hours of sleep in an eight hour period during a 24-hour work period; and

(ii) The eligible individual requires these assessed needs as defined in OAR 411-015-0006:

- (I) Full assist in transfer; and
- (II) Assist in mobility; or
- (III) Full assist in toileting or bowel or bladder; or
- (IV) Full assist in cognition.

(c) Service plans that include full-time live-in homecare workers or Independent Choices Program employee providers must include a minimum of 60 hours per month of twenty-four hour availability. When a live-in homecare worker or Independent Choices Program employee provider is employed less than full time, the hours must be pro-rated. Full-time means the live-in homecare worker is providing services to the client-employer seven days per week throughout a calendar month.

(d) Rates for this availability shall be in accordance with the rate schedule and paid at less than minimum wage according to the Fair Labor Standards Act and ORS 653.020(2).

(e) Twenty-four hour availability assumes the homecare worker is available to address the service needs of an individual as they arise throughout a 24 hour period. A homecare worker who engages in employment outside the eligible individual's home or building during the work periods he or she is on duty as a homecare worker, is not considered available to meet the service needs of the individual.

(5) Under no circumstances shall any provider receive payment from SPD for more than the total amount authorized by SPD on the service plan authorization form. All service payments must be prior-authorized by SPD or AAA.

(6) AUTHORIZED HOURS ARE SUBJECT TO THE AVAILABILITY OF FUNDS. Case managers must assess and utilize as appropriate, natural supports, cost-effective assistive devices, durable medical equipment, housing accommodations, and alternative service resources (as defined in OAR 411-015-0005) which could reduce the individual's reliance on paid in-home services hours.

(7) SPD may authorize paid in-home services only to the extent necessary to supplement potential or existing resources within the individual's natural support system.

(8) Payment by SPD for waived in-home services can only be made for those tasks described in this rule as activities of daily living, self-management tasks and twenty-four hour availability. Services must be authorized to meet the needs of the eligible individual and cannot be provided to benefit the entire household.

(9) EXCEPTIONS TO MAXIMUM HOURS OF SERVICE.

(a) To meet an extraordinary ADL service need that has been documented, the hours authorized for activities of daily living can exceed the full assistance hours (defined in section (2) of this rule) as long as the total number of ADL hours in the service plan does not exceed 145 hours per month.

(b) Monthly service payments that exceed 145 ADL hours per month may be approved by SPD central office when the exceptional payment criteria identified in OAR 411-027-0000 and 411-027-0050 are met.

(c) Monthly service plans that exceed 389 hours per month for a live-in homecare worker or Independent Choices Program employee provider, or that exceed the equivalent monthly service payment for an hourly services plan, may be approved by SPD central office when the exceptional payment criteria identified in OAR 411-027-0020 and 411-027-0050 are met.

(d) As long as the total number of self-management task hours in the service plan does not exceed 85 hours per month and the service need is documented, the hours authorized for self-management tasks can exceed the hours for full assistance (as defined in section (3) of this rule) for the following tasks and circumstances:

(A) Housekeeping based on medical need (such as immune deficiency);

(B) Short-term extraordinary housekeeping services necessary to reverse unsanitary conditions that jeopardize the health of the individual; or

(C) Extraordinary self-management needs in medication management or service-related transportation.

(e) Monthly service plans that exceed 85 hours per month in self-management tasks may be approved by SPD central office when the individual meets the exceptional payment criteria identified in OAR 411-027-0000 and 411-027-0050.

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

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; SSD 6-1994, f. & cert. ef. 11-15-94; SDDSD 8-1999(Temp), f. & cert. ef. 10-15-99 thru 4-11-00; SDDSD 3-2000, f. 4-11-00, cert. ef. 4-12-00; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03; SPD 15-2004, f. 5-28-04, cert. ef. 6-7-04; SPD 15-2004, f. 5-28-04, cert. ef. 6-7-04; SPD 18-2005(Temp), f. 12-20-05, cert. ef. 12-21-05 thru 6-1-06; SPD 20-2006, f. 5-26-06, cert. ef. 6-1-06; SPD 4-2008(Temp), f. & cert. ef. 4-1-08 thru 9-24-08; SPD 13-2008, f. & cert. ef. 9-24-08

411-030-0100

Independent Choices Program

(1) The Independent Choices Program (ICP) is an in-home services program that empowers participants to self-direct their own service plans and purchase goods and services that enhance independence, dignity, choice and well-being.

(2) The ICP is limited to a maximum of 2,600 participants.

(a) SPD shall establish and maintain a waiting list for individuals eligible for in-home services requesting ICP after the ICP has reached its maximum.

(b) SPD shall enter names on the waiting list according to the date submitted by the SPD/AAA office.

(c) As vacancies occur, eligible individuals on the waiting list shall be offered the ICP in order according to their place on the waiting list.

(d) Individuals on the waiting list may receive services through other appropriate DHS programs for which they are eligible.

(3) INITIAL ELIGIBILITY REQUIREMENTS.

(a) To be eligible for the ICP an individual must:

(A) Meet all program requirements of the in-home services program in OAR chapter 411, division 030;

(B) Develop a service plan and budget to meet the needs identified in the CA/PS assessment;

(C) Sign the ICP participation agreement;

(D) Have or be able to establish a checking account;

(E) Provide evidence of a stable living situation for the past three months; and

(F) Demonstrate the ability to manage money as evidenced by timely and current utility and housing payments.

(b) If the participant is unable to direct and purchase his or her own in-home services, the participant must have a representative to act on the participant's behalf. The "representative" is the person assigned by the participant to act as the participant's decision maker in matters pertaining to the ICP service plan and service budget. A representative must:

(A) Complete a criminal history check pursuant to OAR chapter 407, division 007 and receive a final fitness determination of approval; and

(B) Sign and adhere to the "Independent Choices Program Representative Agreement" on behalf of the participant.

(c) If the participant is unable to manage ICP cash payment accounting, tax or payroll responsibilities and does not have a representative, the participant must arrange and purchase the ongoing services of a fiscal intermediary, such as an accountant, bookkeeper or equivalent financial services. Participants, or their representative who have met the eligibility criteria in section (3)(b) of this rule, may also choose to use a fiscal intermediary. The participant is responsible for any fees or payment to the fiscal intermediary and may allocate the fees or payment from their discretionary funds or other non ICP funds.

(4) DISENROLLMENT CRITERIA. Participants may be disenrolled from the ICP voluntarily or involuntarily.

(a) Voluntary disenrollment. Participants or representatives must provide notice to SPD of intent to discontinue participation. The participant or the representative must meet with SPD to reconcile remaining ICP cash payment either within 30 days of the date of disenrollment or before the termination date, whichever is sooner.

(b) Involuntary disenrollment.

(A) The participant may be involuntarily disenrolled from the ICP when the participant, representative or employee provider does not adequately meet the participant's service needs or carry out the following ICP responsibilities:

(i) Non-payment of employee's wages, as stated in the service budget.

(ii) Failure to maintain health and well-being by obtaining personal care as evidenced by:

(I) Decline in functional status due to the failure to meet the participant's needs; or

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(II) Substantiated complaints of self-neglect or neglect or other abuse on the part of the employee provider or representative.

(iii) Failure to purchase goods and services according to the service plan;

(iv) Failure to comply with the legal or financial obligations as an employer;

(v) Failure to maintain a separate ICP checking account or commingling ICP cash benefit with other assets;

(vi) Inability to manage the cash benefit as evidenced by two or more incidents of overdrafts of the participant's ICP checking account during the last cash benefit review period;

(vii) Failure to deposit monthly service liability payment into the ICP checking account;

(viii) Failure to maintain an individualized back-up plan (as part of the service plan) resulting in a negative consequence;

(ix) Failure to sign or follow the ICP Participation Agreement; and

(x) Failure to select a representative within 30 days if a participant needs a representative and does not have one.

(B) Participants who are disenrolled from the ICP may not reapply for six months. After the six month disenrollment period, an individual may re-enroll and must meet all ICP eligibility requirements. If the ICP enrollment cap has been reached, participants who were disenrolled shall be added to the waiting list.

(5) **INTERRUPTION OF SERVICES.** When a participant is absent from the home for longer than 30 days due to illness or medical treatment, the ICP cash benefit shall be terminated. The cash benefit may resume upon return to the home, providing ICP eligibility criteria is met.

(6) **SELECTION OF EMPLOYEE PROVIDERS.**

(a) The participant or representative carries full responsibility for locating, screening, interviewing, hiring, training, paying, and terminating employee providers. The participant or representative must comply with Immigration and Customs Enforcement laws and policies.

(b) The participant or representative must assure the employee provider's ability to perform or assist with activities of daily living, self-management and twenty-four hour availability needs.

(c) Employee providers must complete a criminal history check pursuant to OAR chapter 407, division 007. If a record of a potentially disqualifying crime is revealed, the participant or representative may employ the provider at the participant's or representative's discretion.

(d) A representative cannot be an employee provider regardless of relationship to the participant.

(e) Participant's relatives may be employed as employee providers.

(7) **CASH BENEFIT.**

(a) The cash benefit is determined based on the CA/PS assessment of need, the service plan, the level of assistance standards in OAR 411-030-0070 and natural supports.

(b) The cash benefit is calculated by adding the activities of daily living task hours, the self-management task hours and the 24-hour availability hours that the participant is eligible for as determined in the CA/PS assessment, at the rates according to the SPD rate schedule.

(c) The following services, which are approved by the case manager and paid for by SPD, are excluded from ICP cash benefit:

(A) Community health supports;

(B) Contracted non-medical waiver service transportation;

(C) Home delivered meals; and

(D) Emergency response systems.

(d) The cash benefit shall include the employer's portion of required FICA, FUTA, and SUTA.

(e) The cash benefit shall be directly deposited into the participant's ICP designated checking account.

(8) **SERVICE BUDGET.**

(a) The service budget must identify the cash benefit, the discretionary and contingency funds if applicable, the reimbursement to an employee provider and all other expenditures. The service budget must be initially approved by SPD/AAA staff.

(b) The participant may amend the service budget as long as the amendments relate to meeting the service needs and are within ICP program guidelines.

(c) A budget review to assure financial accountability and review service budget amendments must be completed at least every six months.

(9) **CONTINGENCY FUND.**

(a) The participant may establish a contingency fund in the service budget to purchase identified items that are not otherwise covered by Medicaid or food stamps that substitute for personal assistance and allow for greater independence.

(b) The contingency fund must be approved by the case manager, identified in the service budget and related to service plan needs.

(c) Contingency funds may be carried over into the next month's budget until the item is purchased.

(10) **DISCRETIONARY FUND.**

(a) The participant may establish a monthly discretionary fund in the service budget to purchase items that directly relate to the health, safety and independence of the participant and are not otherwise covered under waived services or delineated in the monthly service budget.

(b) The maximum amount of discretionary funds may be up to 10 percent of the participant's cash benefit not including employee taxes.

(c) The discretionary fund must be approved by the case manager, identified in the service budget and related to service plan needs.

(d) Discretionary funds must be used by the end of the month.

(11) **ISSUING BENEFITS.**

(a) The service plan and service budget must be prior approved by the case manager before the first ICP cash benefit is paid.

(b) A cash benefit is considered issued and received by the participant when the direct deposit is made to the participant's ICP bank account or a benefit check is received by the participant.

(c) The cash benefit is exempt from resource calculations for other DHS programs only while in the ICP bank account and not commingled with other personal funds.

(d) The cash benefit is not subject to assignment, transfer, garnishment, or levy as long as it can be identified as a program benefit and is separate from other money in the participant's possession.

(12) **CASE MANAGER RESPONSIBILITIES.**

(a) The case manager is responsible to review and authorize service plans and service budgets that meet the ICP program criteria.

(b) If a participant is disenrolled, the case manager must review eligibility for other Medicaid long term care and community based service options and offer other alternatives if the participant is eligible.

(c) At least every six months, SPD/AAA staff must complete a service budget review to assure financial accountability and review service budget amendments.

(13) **HEARING RIGHTS.** ICP participants have contested case hearing rights as described in OAR chapter 461, division 025.

Stat. Auth.: ORS 410.090

Stats. Implemented: ORS 410.070

Hist.: SPD 4-2008(Temp), f. & cert. ef. 4-1-08 thru 9-24-08; SPD 13-2008, f. & cert. ef. 9-24-08

Rule Caption: Medically Involved Children's Program.

Adm. Order No.: SPD 14-2008

Filed with Sec. of State: 10-9-2008

Certified to be Effective: 10-9-08

Notice Publication Date: 5-1-2008

Rules Adopted: 411-355-0000, 411-355-0010, 411-355-0020, 411-355-0030, 411-355-0040, 411-355-0050, 411-355-0060, 411-355-0070, 411-355-0080, 411-355-0090, 411-355-0100, 411-355-0110, 411-355-0120

Rules Repealed: 411-355-0000(T), 411-355-0010(T), 411-355-0020(T), 411-355-0030(T), 411-355-0040(T), 411-355-0050(T), 411-355-0060(T), 411-355-0070(T), 411-355-0080(T), 411-355-0090(T), 411-355-0100(T), 411-355-0110(T), 411-355-0120(T)

Subject: The Department of Human Services, Seniors and People with Disabilities Division is permanently adopting the April 15, 2008 rules in OAR chapter 411, division 355 that implemented the Medically Involved Children's Program.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-355-0000

Purpose

The rules in OAR chapter 411, division 355 establish the policy of, and prescribe the standards and procedures for, the provision of services for children enrolled in the Medically Involved Children's Program by the Seniors and People with Disabilities Division. MICP services are exclusively intended to allow children who meet the nursing facility level of care to return to the family home, or remain at the family home, with specialized supports and services. MICP services specifically preserve a parent's capacity to care for their child, assure the health and safety of the child within the family home, and permit children who have been separated from their families due to their health and medical care needs to return to the family home to prevent out of home placement. MICP services complement and supplement the services that are available through the State Medicaid Plan and other federal, state and local programs as well as the natural supports that families and communities provide.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.340 - 417.355, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08

ADMINISTRATIVE RULES

411-355-0010

Definitions

(1) "Activities of Daily Living (ADL)" means activities usually performed in the course of a normal day in a child's life such as eating, dressing and grooming, bathing and personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel and bladder management), and cognition and behavior (play and social development).

(2) "Assistant Director" means the Assistant Director of the Department of Human Services, Seniors and People with Disabilities Division, or that individual's designee.

(3) "Behavior Consultant" means a contractor with specialized skills who meets the requirements of OAR 411-355-0050(2) and provides the services described in 411-355-0040(2).

(4) "Billing Form" means the document generated by the Seniors and People with Disabilities Division that acts as a prior authorization, contract, and payment mechanism for services.

(5) "Billing Provider" means an organization that enrolls and contracts with the Seniors and People with Disabilities Division to provide services through its employees and bills the Seniors and People with Disabilities Division for the provider's services.

(6) "Child" means an individual who is under the age of 18 and eligible for the Medically Involved Children's Program.

(7) "CMS" means Centers for Medicare and Medicaid Services, the federal agency charged with delivery and oversight of all Medicare and Medicaid services.

(8) "Cost Effective" means that in the opinion of the service coordinator, a specific service meets the child's service needs and costs less than, or is comparable to, other service options considered.

(9) "Delegation" means that a registered nurse authorizes an unlicensed individual to perform nursing tasks and confirms that authorization in writing. Delegation may occur only after the registered nurse follows all steps of the delegation process as outlined in OAR chapter 851, division 047.

(10) "Developmental Disability (DD)" is always provisional and means:

(a) For children five years and younger.

(A) The condition or impairment must be expected to last indefinitely and must not be otherwise primarily attributed to mental illness, substance abuse, an emotional disorder, Attention Deficit and Hyperactivity Disorder, a learning disability, or sensory impairment; AND

(B) There is a standardized test demonstrating significant adaptive behavior impairment (more than two standard deviations below the norm) in at least two of the following areas of functioning:

- (i) Self care;
- (ii) Receptive and expressive language;
- (iii) Learning;
- (iv) Mobility;
- (v) Self-direction; OR

(C) There is a statement by a licensed medical practitioner that the child has a condition or syndrome that shall likely cause significant adaptive impairment in at least two of the areas listed in section (10)(a)(B) of this rule.

(b) For children six years and older.

(A) There is a diagnosis of mental retardation; OR

(B) There is a diagnosis of developmental disability; AND

(C) There is a significant adaptive behavior impairment (more than two standard deviations below the norm) that requires training or supports similar to that required by individuals with mental retardation in at least two of the following areas of functioning:

- (i) Self care;
- (ii) Receptive and expressive language;
- (iii) Learning;
- (iv) Mobility;
- (v) Self direction; AND

(D) The condition or impairment must be expected to last indefinitely and must not be otherwise primarily attributed to mental illness, substance abuse, an emotional disorder, Attention Deficit and Hyperactivity Disorder, a learning disability, or sensory impairment; AND

(E) The child is expected to need multiple, specialized supports indefinitely.

(11) "DHS" means the Department of Human Services.

(12) "Family Home" means the residence of the child that is not a foster home, group home, or other residential service funded with public funds.

(13) "Grievance" means a process by which an individual may air complaints and seek remedies.

(14) "In-Home Daily Care (IHDC)" means essential supportive daily care delivered by a qualified provider that enables a child to remain, or return to, the family home.

(15) "Medically Involved Criteria (Form DHS-0521)" means the assessment tool used by the Seniors and People with Disabilities Division to evaluate the intensity of the challenges presented by children eligible for the Medically Involved Children's Program.

(16) "Medically Involved Children's Program (MICP)" means the waiver program granted by the federal Centers for Medicare and Medicaid Services that allows Title XIX funds to be spent on children living in their family home who otherwise would have to be served in a nursing facility if the waiver program was not available.

(17) "Nurse" means an individual who holds a valid, current license from the Oregon Board of Nursing as a registered nurse (RN) or licensed practical nurse (LPN).

(18) "Nursing Care Plan" means a plan of care developed by a registered nurse that describes the medical, nursing, psychosocial, and other needs of a child, and how those needs shall be met. The nursing care plan includes which tasks shall be taught, assigned, or delegated to the qualified provider or parent. When a nursing care plan exists, it becomes a part of the plan of care.

(19) "Nursing Facility (NF)" means a residential medical facility.

(20) "Nursing Tasks or Services" means the care or services that require the education and training of a licensed professional nurse to perform. Nursing tasks or services may be delegated.

(21) "OHP" means the Oregon Health Plan.

(22) "Parent" means biological parent, adoptive parent, or legal guardian.

(23) "Plan of Care (POC)" means a written document developed by the service coordinator and the parent that describes the individual needs of the child, the needs and resources of the family that impact the child, and how those individual needs shall be met with family and public resources. The plan of care includes the nursing care plan when one exists.

(24) "Primary Caregiver" means the parent, relative, or other non-paid parental figure that provides the direct care of the child at the times that a paid provider is not available.

(25) "Provider or Performing Provider" means an individual who meets the requirements of OAR 411-355-0050 that is qualified to receive payment from the Seniors and People with Disabilities Division for in-home daily care. Providers work directly with children. Providers may be employees of billing providers, employees of the parent, or independent contractors.

(26) "Respite" means intermittent services provided on a periodic basis for the relief of, or due to the temporary absence of, the primary caregiver.

(27) "Service Budget" means the monthly dollar amount allotted for the care of the child based on a medically involved criteria level of care determination. The service budget consists of in-home care and, if the child is on a waiver, waived services.

(28) "Service Coordinator" means an employee of the Seniors and People with Disabilities Division who ensures a child's eligibility for the Medically Involved Children's Program and provides assessment, case planning, service implementation, and evaluation of the effectiveness of the services.

(29) "SPD" means the Department of Human Services, Seniors and People with Disabilities Division.

(30) "Specialized Diet" means specially prepared or particular types of food needed to sustain a child in the family home.

(31) "Supplant" means take the place of.

(32) "These Rules" means the rules in OAR chapter 411, division 355.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.340 - 417.355, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08

411-355-0020

Eligibility

(1) ELIGIBILITY. In order to be eligible for the MICP, the child must:

(a) Be under the age of 18;

(b) Require nursing facility level of care;

(c) Score 100 or greater on the medically involved criteria within four months of starting services;

(d) Be eligible to receive Title XIX (Medicaid) services;

(e) Require services offered under the MICP;

(f) Be a U.S. citizen;

(g) Reside in the family home or reside in a nursing facility and wish to return to the family home; and

(h) Be capable of being safely served in the family home. This includes, but is not limited to, the parent demonstrating the willingness, skills, and ability to provide the direct care as outlined in the plan of care in a cost effective manner as determined by the service coordinator within the limitations of OAR 411-355-0040.

(2) INELIGIBILITY. A child is not eligible for the MICP if the child:

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(a) Continues to reside in a hospital, school, sub-acute facility, nursing facility, intermediate care facility for the mentally retarded, residential facility, foster home, or other institution;

(b) Does not require waived services or has sufficient family, government, or community resources available to provide for his or her care; or

(c) Is not safely served in the family home as described in section (1)(h) of this rule.

(3) **DISENROLLMENT.** SPD shall disenroll a child from the MICP when:

(a) The child no longer meets the medically involved criteria of section (1) of this rule; or

(b) The child's medically involved criteria score falls below 80.

(4) **REDETERMINATION.** SPD shall redetermine a child's eligibility for the MICP using the medically involved criteria at a minimum of every 12 months, or as the child's status changes.

(5) **ENROLLMENT.** If a child meets the criteria of section (1) of this rule and space is available in the MICP, the child's priority for enrollment shall be in accordance with ORS 417.345, CMS model waiver requirements, and geographical distribution for equal access to services. The date the initial application is complete is the date that SPD receives all of the required demographic and referral information on the child.

(6) **WAIT LIST.** SPD may place a child eligible for the MICP on a wait list if the allowable numbers of children in the MICP are already being served.

(a) The date the initial application for the MICP is completed shall determine the order on the wait list. A child previously enrolled in children's intensive in-home services that currently meets eligibility criteria and applies for the MICP shall be put on the wait list as of the date the child's original application for services was complete.

(b) Children on the wait list shall be served on a first come, first served basis according to the legislatively mandated enrollment priorities, per geographical region, and as space on the MICP allows.

(7) **ASSESSMENT.** Anyone can request an assessment for a child for MICP services.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.340 - 417.355, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08

411-355-0030

Plan of Care

(1) To develop the plan of care, the service coordinator must assess the individual service needs of the child and must interview the parent, provider, and other interested individuals. The assessment must identify:

(a) The current care needs of the child including ADL care, medication management, communication, supervisory needs, and physical environment;

(b) The services for which the child is currently eligible;

(c) The services currently being provided;

(d) All available family, private health insurance, and government or community resources that meet any, some, or all of the child's needs; and

(e) Areas of unmet needs.

(2) The service coordinator must prepare, with the input of the parent and any other individual at the parent's request, a written plan of care that identifies:

(a) The service needs of the child and the family;

(b) The most cost effective services for safely meeting the child's service needs;

(c) The methods, resources, and strategies that address some or all of the service needs;

(d) The number of hours of in-home daily care or other related services authorized for the child; and

(e) Additional services authorized by SPD for the child.

(3) The service coordinator must prepare a plan of care that includes:

(a) The maximum hours of authorized provider services;

(b) The annual average service budget;

(c) The date of the next planned review that, at a minimum, must be completed within 365 calendar days of the last plan of care;

(d) The nursing care plan, when one exists; and

(e) All behavior and specialized consultant services purchased through the MICP.

(4) The parent must review the plan of care prior to implementation.

(5) The parent and the service coordinator must sign the plan of care and a copy must be provided to the parent.

(6) The service coordinator must reflect significant changes in the needs of the child in the plan of care, as they occur, and provide a copy of the updated plan of care to the parent.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.340 - 417.355, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08

411-355-0040

Scope and Limitations of MICP Services

(1) To be authorized and eligible for payment by SPD, all MICP supports and services must be:

(a) Directly related to the child's disability;

(b) Required to maintain the health and safety of the child;

(c) Cost effective;

(d) Considered not typical for a parent to provide a child of the same age;

(e) Required to help the parent to continue to meet the needs of caring for the child; and

(f) Included in an approved plan of care.

(2) MICP services may include a combination of the following waiver and non-waivered services based upon the needs of the child as determined by the service coordinator and as consistent with the child's plan of care:

(a) In-home daily care;

(b) Respite;

(c) Specialized medical equipment and supplies;

(d) Motor vehicle adaptations;

(e) Environmental accessibility adaptations;

(f) Homemaker and chore;

(g) Physical, occupational, and speech and language therapy;

(h) Non-medical transportation;

(i) Family training;

(j) Translation;

(k) Special diets; or

(l) Specialized consultation (behavior and nursing delegation).

(3) The annual average service budget, as authorized by SPD in the plan of care, dated from the initial plan of care to the anniversary date, must not exceed the allowed maximum service budget amount. Service budgets increase or decrease in direct relationship to the increasing or decreasing medically involved criteria score.

(4) Ninety day exceptions shall only be authorized by SPD in the following circumstances:

(a) The child is at immediate risk of loss of the family home without the expenditure;

(b) The expenditure provides supports for emerging or changing care needs; or

(c) A significant medical condition or event occurs that prevents the primary caregiver from providing care or services as documented by a physician.

(5) SPD shall evaluate exceptions beyond 90 days on an individual basis using the criteria in section (4) of this rule

(6) SPD shall not pay for MICP services that are:

(a) Abusive, aversive, or demeaning;

(b) Experimental;

(c) Illegal;

(d) Determined unsafe for the general public by recognized child and consumer safety agencies;

(e) Not necessary or cost effective;

(f) Educational services for school-age children, including professional instruction, formal training, and tutoring in communication, socialization, and academic skills; or

(g) Services or activities that the legislative or executive branch of Oregon government has prohibited use of public funds.

(7) When multiple children in the same family home or setting qualify for MICP services, the same provider must provide services to all qualified children if services can be safely delivered by a single provider, as determined by the service coordinator.

(8) **IN-HOME DAILY CARE.** In-home daily care services include a combination of direct provider support assistance with ADLs, nursing services, or other supportive services provided by qualified providers and agencies. The extent of the services may vary, but the extent of service is limited as described in this rule.

(a) SPD shall only authorize in-home daily care service hours that support a parent in their primary caregiving role.

(b) In-home daily care services provided by qualified providers or agencies include:

(A) Basic personal hygiene — Assistance with bathing and grooming;

(B) Toileting, bowel, and bladder care — Assistance in the bathroom, diapering, external cleansing of perineal area, and care of catheters;

(C) Mobility — Transfers, comfort, positioning, and assistance with range of motion exercises;

(D) Nutrition — Special diets, monitoring intake and output, and feeding;

(E) Skin care — Dressing changes;

(F) Supervision — Providing an environment that is safe and meaningful for the child, interacting with the child to prevent danger to the child and others, and assisting the child with appropriate leisure activities;

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(G) Communication — Assisting the child in communicating, using any means used by the child;

(H) Neurological — Monitoring of seizures, administering medication, and observing status; and

(I) Other personal care tasks or services.

(c) When any of the in-home daily care services listed in section (8)(b) of this rule are essential to the health and welfare of the child, the provider may provide the following supportive services:

(A) Housekeeping tasks necessary to maintain a healthy and safe environment for the child;

(B) Arranging for necessary medical equipment, supplies, or medications;

(C) Arranging for necessary medical appointments;

(D) Accompanying the child to appointments, outings, or community-based activities; or

(E) Participating in activities with the child to enhance development.

(d) In-home daily care service hours may be spread throughout the time authorized in the billing form or used in large blocks of time as the parent determines.

(e) In-home daily care services must:

(A) Be previously authorized by SPD before services begin;

(B) Be based on the assessed service needs of the child consistent with, and documented in, the plan of care as determined by the service coordinator;

(C) Be delivered through the most cost effective method as determined by the service coordinator; and

(D) Include a physician's order when nursing services are to be provided. SPD determines whether payment of nursing services, or the hours of in-home daily care services as ordered by the physician, shall be authorized for payment according to these rules.

(f) In-home daily care services exclude:

(A) Hours that supplant the natural supports and services available from family, community, other government or public services, insurance plans, schools, philanthropic organizations, friends, or relatives;

(B) Hours solely to allow a parent to work or attend school; and

(C) The authorization of hours or level of care not supported by the assessed service needs of the child as documented in the plan of care.

(9) RESPITE. Respite services are provided to a child on a periodic or intermittent basis furnished because of the temporary absence of, or need for relief of, the primary caregiver. Respite includes both day and overnight care and may be provided in the family home, qualified provider's home, or qualified facility.

(a) SPD may authorize the following types of qualified providers to provide respite care:

(A) Individual respite provider;

(B) Licensed day care center;

(C) Group home;

(D) Foster home; or

(E) Disability-related or therapeutic recreational camp.

(b) SPD shall not authorize respite services:

(A) Solely to allow primary caregivers to attend school or work;

(B) On more than a periodic schedule;

(C) For more than 56 days in a calendar year;

(D) For more than 14 consecutive days in a calendar month;

(E) For more than 10 days per individual plan year when provided at a specialized camp; or

(F) To pay for room and board if provided at a licensed site or specialized camp.

(10) SPECIALIZED EQUIPMENT AND SUPPLIES. Specialized equipment and supplies include the purchase of devices, aids, controls, supplies, or appliances that are necessary to enable a child to increase their abilities to perform activities of daily living, or to perceive, control, or communicate with the environment in which they live.

(a) Specialized equipment and supplies may include:

(A) Communication devices;

(B) Adaptive clothing;

(C) Adaptive eating equipment;

(D) Adaptive sensory or habilitation devices or supplies;

(E) Incontinent supplies; or

(F) Increased utility costs associated with medically necessary equipment and procedures.

(b) If a professional is required to assess, identify, adapt, or fit the specialized equipment, SPD shall include the cost in the purchase price of the equipment.

(c) To be authorized by SPD, specialized equipment and supplies must:

(A) Be in addition to any medical equipment and supplies furnished under OHP;

(B) Be determined necessary to the daily functions of the child; and

(C) Be directly related to the child's disability.

(d) Specialized equipment and supplies exclude:

(A) Items that are not necessary or of direct medical or remedial benefit to the child;

(B) Specialized medical equipment and supplies intended to supplant similar items furnished under OHP;

(C) Items available through family, community, or other governmental resources; and

(D) Items that are considered unsafe for the child.

(11) MOTOR VEHICLE ADAPTATIONS. Motor vehicle adaptations are physical adaptations to a vehicle that are necessary to meet the unique needs of the child and ensure the health, welfare, and safety of the child.

(a) SPD shall only authorize motor vehicle adaptations for the primary vehicle used by the child. The motor vehicle adaptations must be cost effective and directly relate to the child's disability.

(b) Motor vehicle adaptations do not include general repair or maintenance and upkeep required by a motor vehicle.

(12) ENVIRONMENTAL ACCESSIBILITY ADAPTATIONS. Environmental accessibility adaptations are physical adaptations to a family home that are necessary to ensure the health, welfare, and safety of the child in the family home, or that are necessary to enable the child to function with greater independence around the family home and in family activities. Environmental accessibility adaptations also include an environmental modification consultation to evaluate the family home and make plans to modify the family home to ensure the health, welfare, and safety of the child.

(a) SPD shall authorize environmental accessibility adaptations when:

(A) Related to the child's disability;

(B) Determined to be the most cost effective solution;

(C) Provided in accordance with applicable state or local building codes by licensed contractors. Any modification that impedes egress shall be approved only if a risk assessment demonstrates no safer solution and a safety plan is signed by the parent; and

(D) Authorized in writing by the owner of a rental structure prior to initiation of the work. This does not preclude any reasonable accommodation required under the Americans with Disabilities Act.

(b) For environmental accessibility adaptations that, singly or together, exceed \$5,000, SPD may protect its interest for the entire amount of the adaptations through liens or other legally available means.

(c) Environmental accessibility adaptations exclude:

(A) Adaptations or improvements to the family home that are of general utility and are not for the direct safety, remedial, or long term benefit to the child; and

(B) Adaptations that add to the total square footage of the family home.

(13) HOMEMAKER AND CHORE. Homemaker and chore services are services that are required to maintain the family home in a clean, sanitary, and safe environment. Homemaker services include general housekeeping activities while chore services consist of heavy household chores including washing floors, windows, and walls.

(a) SPD shall authorize homemaker and chore services:

(A) When the individual regularly responsible for these activities is temporarily absent or unable to manage the family home and care for him or herself or others in the family home; or

(B) To allow the primary caregiver more time to care for the child enrolled in the MICP.

(b) Homemaker services may not exceed 24 hours per month.

(c) Chore services are considered one-time or intermittent services that are not available on a routine basis.

(d) Homemaker and chore services must be prior authorized by the service coordinator after agreement to scope of work, hours and cost.

(14) PHYSICAL THERAPY, OCCUPATIONAL THERAPY, AND SPEECH AND LANGUAGE THERAPY. Physical, occupational, and speech and language therapy are services provided in the family home or clinic setting by a physical therapist, occupational therapist, or speech and language pathologist as defined under OAR 410-120-0000 except that the amount and duration specified in the State Medicaid Plan do not apply. Physical, occupational, and speech and language therapy services are provided as an extension to state plan services and include interventions and treatments that are commonly accepted practice.

(a) To be authorized by SPD, the physical, occupational, and speech and language therapy services must:

(A) Have exhausted the limits identified under OHP and private insurance;

(B) Be denied by OHP for additional treatments;

(C) Be assessed by the professional, service coordinator, and physician concluding that the child would benefit by continued services;

(D) Include medical doctor orders and a therapist's treatment plan with the authorization request;

(E) Identify the number of services provided in the plan year until OHP or private insurance renew; and

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(F) Be reviewed by the service coordinator.
(b) The following physical, occupational, and speech and language therapy services are excluded:

(A) Services and treatments that supplant those provided under OHP or other resources;

(B) Services and treatments that are not commonly accepted practice;

(C) Services and treatments offered by a non-licensed professional; and

(D) Services that are not defined under the approved State Medicaid Plan.

(15) NON-MEDICAL TRANSPORTATION. Non-medical transportation for children served by the MICP includes transportation provided in order to enable a child to gain access to MICP and other community services, activities, and resources as specified in the plan of care.

(a) Whenever possible, family, neighbors, friends, or community agencies that can provide non-medical transportation service to the child without charge must be utilized.

(b) Authorization of non-medical transportation in the plan of care must identify the parameters and limits of non-medical transportation service for each child.

(c) Non-medical transportation service for the child must be provided through the most cost effective means identified and may be purchased through local commercial transportation or mileage reimbursement to a qualified provider.

(d) Non-medical transportation services are provided for the child and the child must always be present.

(e) Non-medical transportation excludes:

(A) Transportation to and from school and medical appointments;

(B) Transportation provided by parents, guardians, or legally responsible adults;

(C) Transportation typically provided by parents for children of similar age without disabilities; and

(D) Mileage reimbursement in excess of the published federal rate at http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentId=17943&contentType=GSA_BASIC.

(16) FAMILY TRAINING. Family training services include:

(a) Training and counseling services that increase the parent's capability to care for and maintain the child in the family home.

(b) Disability related resource materials including books, DVD, and other media.

(A) To be authorized by SPD, the materials must relate to the child's specific disability.

(B) Resource materials shall not be authorized by SPD when determined by the service coordinator to be available for loan from other available resources such as local, state, or specialty libraries.

(c) Conferences, workshop registrations, and group trainings that offer information, education, training, and materials about the child's disability, medical, and health conditions.

(A) SPD shall authorize conference, workshop, or group training that:

(i) Directly relates to the child's disability; and

(ii) Increase the knowledge and skills of the parent to care for and maintain the child in the family home.

(B) SPD shall not authorize conference, workshop, or group trainings costs for:

(i) Travel and lodging expenses;

(ii) Meals not included in the registration cost;

(iii) Services otherwise provided under OHP or available through other resources; or

(iv) Individual family members who are employed to care for the child.

(d) Counseling services that assist the parent with the stresses of having a child with a disability.

(A) To be authorized by SPD, the counseling services must:

(i) Be provided by licensed providers;

(ii) Directly relate to the child's disability and the ability of the parent to care for the child;

(iii) Be short term; and

(iv) Have treatment goals prior approved by the service coordinator.

(B) Counseling services are excluded for:

(i) Therapy that could be obtained through OHP or other payment mechanisms;

(ii) Marriage therapy;

(iii) Therapy to address parent or other family members' psychopathology; and

(iv) Counseling that addresses stressors not directly attributed to the child eligible for the MICP.

(17) SPECIALIZED DIET. A specialized diet is in addition to meals a parent would provide and specific to a child's medical condition or diagnosis. A specialized diet includes specially prepared food, or purchase of particular types of food, needed to sustain a child in the family home.

Specialized diet services include the purchase of registered dietician services.

(a) In order for a specialized diet to be authorized by SPD:

(A) The diet must be ordered by a physician licensed by the Oregon Board of Medical Examiners;

(B) The diet must be periodically monitored by a dietician; and

(C) The foods must be on the approved list developed by SPD;

(b) The maximum monthly purchase for specialized diet supplies must not exceed \$100 per month.

(c) SPD shall not authorize:

(A) Special diets and dietician services otherwise available under OHP or other sources;

(B) Restaurant and prepared foods;

(C) Vitamins; and

(D) Food that constitutes a full nutritional regime.

(18) TRANSLATION.

(a) Translation service includes the services of a translator or interpreter required for a monolingual provider. Translation service is provided solely for the purpose of safely implementing the plan of care between parent, child, and provider for those MICP services delivered within the family home. The purpose of translation services is to establish and maintain the same understanding of the child's care requirements between the private providers and the families who must work together to implement the plan of care.

(b) SPD shall not authorize translation services for administrative purposes or services available through Medicaid.

(19) NURSING DELEGATION. Nursing delegation is the purchase of individualized consultation from a registered nurse in order to delegate tasks of nursing care in select situations. Tasks of nursing care are those procedures that require nursing education and licensure of a nurse to perform.

(a) SPD requires nursing delegation for unlicensed providers paid by SPD when a child requires tasks of nursing care.

(b) Nursing delegation may only occur after a registered nurse has:

(A) Assessed the child and the ability of the provider to perform a specific task;

(B) Taught the task to the provider;

(C) Documented the task in the nursing care plan; and

(D) Ensured on-going assessment of the child and re-evaluation and supervision of the provider.

(c) Nursing delegation consultation must include:

(A) An assessment of the child that determines the child's condition is stable and predictable.

(B) An assessment of the provider that determines the ability of the provider to understand the task and safely perform the task without direct nursing supervision. The task shall not be delegated if, in the judgment of the registered nurse, the provider is unable to understand or perform the task in a safe and accurate manner.

(C) Provision of initial direction by teaching the task of nursing care to the provider, including:

(i) The proper procedure and technique;

(ii) Why the task of nursing care is necessary;

(iii) The risks associated with the task;

(iv) Anticipated side effects;

(v) The appropriate response to risks or side effects;

(vi) Observation of the child's response;

(vii) Documentation of the task of nursing care; and

(viii) Observation of the provider performing the task to ensure the task is performed safely and accurately.

(D) Written instructions regarding the task including:

(i) A step by step outline of how the task is to be performed;

(ii) Signs and symptoms to be observed;

(iii) Guidelines for what to do if signs and symptoms occur;

(iv) Instruction to the provider that the task is specific to the child and is not transferable to other children nor can it be taught to other providers by the delegated provider; and

(v) Determination and documentation of the need and time frame for the next assessment and supervisory visit that may be frequent until the delegation is complete.

(I) The initial return assessment and supervisory visit must be made within 60 days from the initial date of the delegation.

(II) Subsequent visits must be no greater than every 180 days.

(20) BEHAVIOR CONSULTATION. Behavior consultation is the purchase of individualized consultation provided in the family home, only as needed, to respond to a specific problem or behavior identified by the parent and the service coordinator.

(a) Behavior consultation shall only be authorized to support a parent in their caregiving role, not as an educational service.

(b) Behavior consultants must:

(A) Work with the parent to identify:

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(i) Areas of a child's family home life that are of most concern for the parent and child;

(ii) The formal or informal responses the parent or provider has used in those areas; and

(iii) The unique characteristics of the parent that could influence the responses that would work with the child.

(B) Assess the child. The assessment must include:

(i) Specific identification of the behaviors or areas of concern;

(ii) Identification of the settings or events likely to be associated with or to trigger the behavior;

(iii) Identification of early warning signs of the behavior;

(iv) Identification of the probable reasons that are causing the behavior and the needs of the child that are being met by the behavior, including the possibility that the behavior is:

(I) An effort to communicate;

(II) The result of a medical condition;

(III) The result of an environmental cause; or

(IV) The symptom of an emotional or psychiatric disorder.

(v) Evaluation and identification of the impact of disabilities (i.e. autism, blindness, deafness, etc.) that impact the development of strategies and affect the child and the area of concern; and

(vi) An assessment of current communication strategies.

(C) Develop a variety of positive strategies that assist the parent and provider to help the child use acceptable, alternative actions to meet the child's needs in the most cost effective manner. These strategies may include changes in the physical and social environment, developing effective communication, and appropriate responses by a parent and provider to the early warning signs.

(i) Positive, preventive interventions must be emphasized.

(ii) The least intrusive intervention possible must be used.

(iii) Abusive or demeaning interventions must never be used.

(iv) The strategies must be adapted to the specific disabilities of the child and the style or culture of the parent.

(D) Develop emergency and crisis procedures to be used to keep the child, parent, and provider safe. When interventions in the behavior of the child are necessary, positive, preventative, non-adversive interventions must be utilized. SPD shall not pay a provider to use physical restraints on a child receiving MICP services.

(E) Develop a written behavior support plan that includes the following:

(i) Use of clear, concrete language that is understandable to the parent and provider; and

(ii) Describes the assessment, strategies, and procedures to be used.

(F) Teach the provider and parent the strategies and procedures to be used.

(G) Monitor and revise the behavior support plan as needed.

(21) GOODS, SERVICES, AND SUPPLIES.

(a) Goods, services, and supplies paid for by SPD must be documented by receipts. The receipts must be maintained by SPD for five years. If no receipt is available, the parent must submit to SPD in writing, a statement that the parent received the goods, services, or supplies, and the date the goods, services, or supplies were received.

(b) SPD may protect its interest through any legally allowable means for any good, service, or supply.

(c) SPD may expend its funds through contract, purchase order, use of credit card, payment directly to the vendor or any other legal payment mechanism.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.340 - 417.355, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef 10-9-08

411-355-0050

Standards for Providers Paid with MICP Funds

(1) PROVIDER QUALIFICATIONS.

(a) Each provider who is paid as a contractor, a self-employed individual, or an employee of the parent to provide homemaker and chore, in-home daily care, respite, transportation, family training, occupational therapy, physical therapy, speech and language therapy, dietician, nursing delegation, or specialized supports must:

(A) Be at least 18 years of age;

(B) Maintain a drug-free work place;

(C) Be legally eligible to work in the United States;

(D) Not be on the current CMS list of excluded or debarred providers (<http://exclusions.oig.hhs.gov/>);

(E) Not be a parent, step parent, or legal guardian of the child;

(F) Consent to and pass a criminal history check by DHS as described in OAR chapter 407, division 007 and be free of convictions or founded allegations of abuse or neglect by the appropriate agency, including but not limited to DHS, prior to enrolling as a provider. Criminal history rechecks

must be performed bi-annually, or as needed, if a report of criminal activity has been received by DHS;

(G) Sign a Medicaid provider agreement and be enrolled as a Medicaid provider prior to delivery of any in-home daily care services; and

(H) Provide evidence satisfactory to SPD that demonstrates, by background, education, references, skills, and abilities, the provider is capable of safely and adequately providing the services authorized. The evidence must be confirmed in writing by the parent and include:

(i) Ability and sufficient education to follow oral and written instructions and keep any records required;

(ii) Responsibility, maturity, exercising sound judgment, and reputable character;

(iii) Ability to communicate with the child;

(iv) Training of a nature and type sufficient to ensure that the provider has knowledge of emergency procedures specific to the child being cared for;

(v) Current, valid, and unrestricted appropriate professional license or certification where care and supervision requires specific professional education, training, and skill;

(vi) Understanding requirements of maintaining confidentiality and safeguarding the child's information; and

(vii) If providing transportation, a valid driver's license and proof of insurance, as well as other license or certification that may be required under state and local law depending on the nature and scope of the transportation service.

(b) A provider is not an employee of DHS or the state of Oregon and is not eligible for state benefits and immunities, including but not limited to, Public Employees' Retirement System or other state benefit programs.

(c) If the provider or billing provider is an independent contractor, during the terms of the contract, the provider or billing provider must maintain in force at the providers own expense, professional liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence. Professional liability insurance is to cover damages caused by error, omission, or negligent acts related to the professional services.

(A) The provider or billing provider must provide written evidence of insurance coverage to SPD prior to beginning work.

(B) There must be no cancellation of insurance coverage without 30 days written notice to SPD.

(d) If the provider is an employee of the parent, the provider must submit to SPD documentation of immigration status required by federal statute. SPD maintains documentation of immigration status required by federal statute, as a service to the parent who is the employer.

(e) A provider must immediately notify the parent and, if appropriate, SPD, of injury, illness, accidents, or any unusual circumstances that may have a serious effect on the health, safety, physical, emotional well being, or level of service required by the child for whom MICP services are being provided.

(f) Providers described in ORS Chapter 418 are required to report suspected child abuse to the police or their local DHS office in the manner described in Chapter 418.

(2) BEHAVIOR CONSULTANTS. Behavior consultants providing specialized consultations must:

(a) Have education, skills, and abilities necessary to provide behavior consultation services as outlined in OAR 411-355-0040 including knowledge and experience in developing plans based on positive behavioral theory and practice;

(b) Have current certification demonstrating completion of Level II training in Oregon Intervention Systems; and

(c) Submit a resume to SPD indicating at least one of the following:

(A) A bachelor's degree in special education, psychology, speech and communication, occupational therapy, recreation, art or music therapy, or a behavioral science field, and at least one year of experience with people with developmental disabilities who present difficult or dangerous behaviors; or

(B) Three years experience with people with developmental disabilities who present difficult or dangerous behaviors and at least one year of that experience must include providing the services of a behavior consultant as outlined OAR 411-355-0040.

(d) Additional education or experience may be required to safely and adequately provide the services described in OAR 411-355-0040.

(3) NURSES. Nurses providing direct care or delegation services must:

(a) Have a current Oregon nursing license; and

(b) Submit a resume to SPD indicating the education, skills, and abilities necessary to provide nursing services in accordance with state law, including at least one year of experience with people with developmental disabilities.

(4) ENVIRONMENTAL MODIFICATION CONSULTANTS. Environmental modification consultants must be licensed general contrac-

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tors and have experience evaluating homes, assessing individual needs, and developing cost effective plans that make the home safe and accessible for the child.

(5) ENVIRONMENTAL ACCESSIBILITY ADAPTATION PROVIDERS. Environmental accessibility adaptation providers must be building contractors licensed as applicable under either OAR chapter 812, Construction Contractor's Board, or OAR chapter 808, Landscape Contractors Board.

(6) FAMILY TRAINING PROVIDERS. Providers of family training must be:

- (a) Psychologists licensed under ORS 675.030;
- (b) Clinical social workers licensed under ORS 675.530;
- (c) Licensed professional counselors licensed under ORS 675.715; or
- (d) Medical professionals licensed under ORS 677.100.

(7) DIETICIANS. Dieticians providing specialized diets must be licensed according to ORS 691.415 through 691.465.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.340 - 417.355, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08

411-355-0060

Standards for Provider Organizations Paid by SPD

(1) A provider organization may not require additional certification to provide respite, community inclusion, or emergent services if they are licensed or certified as:

(a) 24-hour residential programs under OAR chapter 411, division 325;

(b) Foster homes for children with developmental disabilities under OAR chapter 411, division 346;

(c) Child care centers under OAR chapter 414, division 300; or

(d) Organizational camps under OAR chapter 333, division 030.

(2) Provider organizations licensed or certified as described in section (1) of this rule may be considered sufficient demonstration of ability to:

- (a) Recruit, hire, supervise, and train qualified staff;
- (b) Provide services according to individual support plans; and
- (c) Develop and implement operating policies and procedures required for managing an organization and delivering services, including provisions for safeguarding individuals receiving services.

(3) A provider organization that wishes to enroll with the MICP must maintain and submit evidence upon initial application and upon request by SPD the following:

(a) Current criminal history checks on each employee who shall be providing services in a family home showing that the employee has no disqualifying criminal convictions;

(b) Professional liability insurance that meets the requirements of OAR 411-355-0050; and

(c) Any licensure required of the agency, by the state of Oregon, or federal law or regulation.

(4) Provider organizations must assure that all individuals directed by the provider organization as employees, contractors, or volunteers to provide services paid for with MICP funds meet standards for qualification of providers outlined in OAR 411-355-0050.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.340 - 417.355, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08

411-355-0070

Standards for General Business Providers paid by SPD

General business providers providing services to children paid with MICP funds must hold any current license appropriate to operate required by the state of Oregon or federal law or regulation.

(1) Home health agencies must be licensed under ORS 443.015.

(2) In-home care agencies must be licensed under ORS 443.315.

(3) Public transportation providers must be regulated according to established standards and private transportation providers must have business license and drivers licensed to drive in Oregon.

(4) Vendors and medical supply companies providing specialized medical equipment and supplies must have a current retail business license and, if vending medical equipment, be enrolled as Medicaid providers through the Division of Medical Assistance Programs.

(5) Providers of personal emergency response systems must have a current retail business license.

(6) Vendors and supply companies providing specialized diets must have a current retail business license.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.340 - 417.355, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08

411-355-0080

Documentation Needs for MICP Services

(1) Original, accurate time sheets of MICP services, dated and signed by the provider and the parent after the services are provided, must be maintained and submitted to SPD with any request for payment for services.

(2) Requests for payment for MICP services must:

(a) Include the billing form indicating prior authorization for the services;

(b) Be signed by the parent after the services were delivered, verifying that the services were delivered as billed; and

(c) Be signed by the provider or billing provider, acknowledging agreement upon request with the terms and condition of the billing form and attesting that the hours were delivered as billed.

(3) Documentation of provided MICP services must be provided to the service coordinator and maintained in the family home or the place of business of the provider of services. SPD shall not pay for services unrelated to the child's disability as outlined in the plan of care.

(4) SPD shall retain billing forms and timesheets for at least five years from the date of service.

(5) Behavior consultants must submit to SPD the following written in clear, concrete language, understandable to the parent and provider:

(a) An evaluation of the child, the parent's concerns, the environment of the child, current communication strategies used by the child and used by others with the child, and any other disability of the child that would impact the appropriateness of strategies to be used with the child; and

(b) Any behavior plan or instructions left with the parent or provider that describes the suggested strategies to be used with the child.

(6) Nurses providing delegation services must submit to SPD the following written in clear, concrete language, understandable to the parent and provider:

(a) A copy of the written statement acknowledging the specific provider receiving training, the nursing tasks delegated to that provider, and the date of the next scheduled review; and

(b) Any nursing delegation plan or instructions left with the parent or provider.

(7) Billing providers must maintain documentation of provided services for at least seven years from the date of service.

(8) Upon written request from DHS, the Oregon Department of Justice Medicaid Fraud Unit, Centers for Medicare and Medicaid Services, or their authorized representatives, providers or billing providers must furnish requested documentation immediately or within the time frame specified in the written request. Failure to comply with the request may be considered by SPD as reason to deny or recover payments.

(9) Access to records by DHS inclusive of medical or nursing records, behavior or psychiatric records, or financial records, does not require authorization or release by the parent.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.340 - 417.355, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08

411-355-0090

Payment for MICP Services

(1) SPD shall make payment for MICP services, described in OAR 411-355-0040, after services are delivered as authorized and required documentation is received by the service coordinator.

(2) Service budgets shall be individually negotiated by SPD, based on the individual needs of the child.

(3) Authorization must be obtained prior to the delivery of any MICP services for those services to be eligible for payment.

(4) Providers must request payment authorization for MICP services provided during an unforeseeable emergency on the first business day following the emergency service. The service coordinator must determine if the service is eligible for payment.

(5) SPD shall make payment to the individual employee of the parent on behalf of the parent. SPD shall pay the employer's share of the Federal Insurance Contributions Act (FICA) and withhold the employee's share of FICA as a service to the parent as the provider's employer.

(6) The delivery of authorized MICP services must occur so that any individual employee of the parent does not exceed 40 hours per work week. SPD shall not authorize services that require the payment of overtime, without prior written authorization by the supervisor of children's intensive in-home services.

(7) SPD shall not pay for any hours of MICP services provided by a provider beyond 16 hours in any 24-hour period unless the hours are part of a 24-hour service budget negotiated by SPD and there is evidence the child can be safely served with a 24-hour service budget. Exceptions require written authorization by the supervisor of children's intensive in-home services.

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(8) Holidays are paid at the same rate as non-holidays.

(9) Travel time to reach the job site is not reimbursable.

(10) In order to be eligible for payment, requests for payments must be submitted to SPD within three months of the delivery of MICP services.

(11) Payment by SPD for MICP services is considered full payment for the services rendered under Title XIX. Under no circumstances may the provider or billing provider demand or receive additional payment for these services from the parent or any other source.

(12) Medicaid funds are the payor of last resort. The provider or billing provider must bill all third party resources until all third party resources are exhausted.

(13) SPD reserves the right to make a claim against any third party payer before or after making payment to the provider of MICP services.

(14) SPD may void without cause prior authorizations that have been issued.

(15) Upon submission of the billing form for payment, the provider must comply with:

(a) All rules in OAR chapter 411;

(b) Title V, Section 504 of the Rehabilitation Act of 1973;

(c) Title II and Title III of the Americans with Disabilities Act of 1991; and

(d) Title VI of the Civil Rights Act of 1964.

(16) All billings must be for MICP services provided within the provider's licensure.

(17) The provider must submit true and accurate information on the billing form. Use of a billing provider does not replace the provider's responsibility for the truth and accuracy of submitted information.

(18) No individual shall submit to SPD:

(a) A false billing form for payment;

(b) A billing form for payment that has been or is expected to be paid by another source; or

(c) Any billing form for MICP services that have not been provided.

(19) SPD shall only make payment to the enrolled provider who actually performs the MICP services or the provider's enrolled billing provider. Federal regulations prohibit SPD from making payment to collection agencies.

(20) Payments may be denied if any provisions of these rules are not complied with.

(21) SPD shall recoup all overpayments. The amount to be recovered:

(a) Is the entire amount determined or agreed to by SPD;

(b) Is not limited to the amount determined by criminal or civil proceedings; and

(c) Includes interest to be charged at allowable state rates.

(22) SPD shall deliver to the provider, by registered or certified mail, or in person, a request for repayment of the overpayment or notification of recoupment of future payments.

(23) Payment schedules with the interest can be negotiated at the discretion of SPD.

(24) If recoupment is sought from a parent whose child received MICP services, hearing rights in OAR 411-355-0110 apply.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.340 - 417.355, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08

411-355-0100

Complaints and Grievances

(1) COMPLAINTS AND GRIEVANCES. SPD shall address all grievances in accordance with DHS written policies, procedures, and rules. Copies of the procedures for resolving grievances shall be maintained on file at SPD. These policies and procedures, at a minimum, shall address:

(a) Informal resolution. The parent of a child has an opportunity to informally discuss and resolve any complaint or grievance regarding action taken by SPD that is contrary to law, rule, or policy and that does not meet the criteria for an abuse investigation. Choosing an informal resolution does not preclude the parent to pursue resolution through formal grievance processes.

(b) Receipt of complaints. SPD shall maintain a log of all complaints regarding the provision of MICP services received via phone calls, e-mails, or writing.

(A) At a minimum, the complaint log shall include:

(i) The date the complaint was received;

(ii) The name of the individual taking the complaint;

(iii) The nature of the complaint;

(iv) The name of the individual making the complaint, if known; and

(v) The disposition of the complaint.

(B) Child welfare and law enforcement reports of abuse or neglect shall be maintained separately from the central complaint and grievance log.

(c) Response to complaints. SPD staff response to the complaint must be provided within five working days following receipt of the complaint and must include:

(A) An investigation of the facts supporting or disproving the complaint; and

(B) Agreement to resolve the complaint. Any agreement to resolve the complaint must be reduced to writing and must be specifically approved by the grievant. The grievant must be provided with a copy of the agreement.

(d) Review. If the complaint involves SPD staff or services, or if the complaint is not or cannot be resolved with SPD staff, a review by the SPD manager must be completed. SPD manager response to the complaint must be made in writing, within 30 days following receipt of the complaint, and must include a response to the complaint as described in section (1)(c) of this rule.

(e) Third-party review when complaints are not resolved by the SPD manager. Unless the grievant is a Medicaid recipient who has elected to initiate the hearing process according to OAR 411-355-0110, a complaint involving the provision of service or a service provider may be submitted to SPD for an administrative review.

(A) The grievant must submit to SPD a request for an administrative review within 15 days from the date of the decision by the SPD manager.

(B) Upon receipt of a request for an administrative review, the Assistant Director shall appoint an Administrative Review Committee and name the chairperson. The Administrative Review Committee shall be comprised of two representatives of SPD. Committee representatives must not have any direct involvement in the provision of services to the grievant or have a conflict of interest in the specific case being grieved.

(C) The Administrative Review Committee must review the complaint and the decision by the SPD manager and make a recommendation to the Assistant Director within 45 days of receipt of the complaint unless the grievant and the Administrative Review Committee mutually agree to an extension.

(D) The Assistant Director shall consider the report and recommendations of the Administrative Review Committee and make a final decision. The decision must be in writing and issued within 10 days of receipt of the recommendation by the Administrative Review Committee. The written decision must contain the rationale for the decision.

(E) The decision of the Assistant Director is final. Any further review is pursuant to the provision of ORS 183.484 for judicial review.

(f) Documentation of complaint. Documentation of each complaint and its resolution must be filed or noted in the grievant's record.

(2) NOTIFICATION. Upon enrollment and annually thereafter, SPD must inform each child's parent orally and in writing, using language, format, and methods of communication appropriate to the parent's needs and abilities, of the following:

(a) SPD grievance policy and procedures, including the right to an administrative review, and the method to obtain an administrative review; and

(b) The right of a Medicaid recipient to a hearing pursuant to OAR 411-355-0110 and the procedure to request a hearing.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.340 - 417.355, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08

411-355-0110

Denial, Termination, Suspension, Reduction or Eligibility for MICP Services for Individual Medicaid Recipients

(1) MEDICAID FAIR HEARING RIGHTS. Each time SPD takes an action to deny, terminate, suspend, or reduce a child's access to services covered under Medicaid, SPD shall notify the child's parent of the right to a hearing and the method to request a hearing. SPD shall mail the notice by certified mail, or personally serve it to the child's parent 10 days or more prior to the effective date of an action.

(a) SPD shall use, Notice of Hearing Rights, or a comparable SPD-approved form for such notification. This notification requirement does not apply if an action is part of, or fully consistent with, the plan of care, or the child's parent has agreed with the action by signature to the plan of care. The notice shall be given directly to the parent when the plan of care is signed.

(b) The parent may appeal a denial of a request for additional or different services only if the request has been made in writing and submitted to the address on the notice to expedite the process.

(c) A notice required by section (1) of this rule must include:

(A) The action SPD intends to take;

(B) The reasons for the intended action;

(C) The specific Oregon Administrative Rules that supports, or the change in federal or state law that requires, the action;

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(D) The appealing party's right to request a hearing in accordance with OAR chapter 137, Oregon Attorney General's Model Rules, ORS Chapter 183, and 42 CFR Part 431, Subpart E;

(E) A statement that SPD files on the subject of the hearing automatically becoming part of the hearing record upon default for the purpose of making a prima facie case;

(F) A statement that the actions specified in the notice shall take effect by default if the DHS representative does not receive a request for hearing from the party within 45 days from the date that SPD mails the notice of action;

(G) In cases of an action based upon a change in law, the circumstances under which a hearing shall be granted; and

(H) An explanation of the circumstances under which MICP services shall be continued if a hearing is requested.

(d) If the parent disagrees with the decision or proposed action of SPD to deny, terminate, suspend, or reduce a child's access to services covered under Medicaid, the parent may request a hearing as provided in ORS Chapter 183. The request for a hearing must be in writing on Form DHS 443 and signed by the parent. The signed form (DHS 443) must be received by DHS within 45 days from the date of SPD notice of denial.

(e) The parent may request an expedited hearing if the parent feels that there is immediate, serious threat to the child's life or health should the normal timing of the hearing process be followed.

(f) If the parent requests a hearing before the effective date of the proposed actions and requests that the existing services be continued, DHS shall continue the services.

(A) DHS must continue the services until whichever of the following occurs first:

(i) The current authorization expires;

(ii) The administrative law judge issues a proposed order and DHS issues a final order; or

(iii) The child is no longer eligible for Medicaid benefits.

(B) DHS must notify the child's parent that DHS is continuing the service. The notice must inform the parent that, if the hearing is resolved against the child, DHS may recover the cost of any services continued after the effective date of the continuation notice.

(g) DHS may reinstate services if:

(A) DHS takes an action without providing the required notice and the parent requests a hearing;

(B) DHS fails to provide the notice in the time required in this rule and the parent requests a hearing within 10 days of the mailing of the notice of action; or

(C) The post office returns mail directed to the parent, but the location of the parent becomes known during the time that the child is still eligible for services.

(h) DHS must promptly correct the action taken up to the limit of the original authorization, retroactive to the date the action was taken, if the hearing decision is favorable to the child, or DHS decides in the child's favor before the hearing.

(i) The DHS representative and the parent may have an informal conference, without the presence of the administrative law judge, to discuss any of the matters listed in OAR 137-003-0575. The informal conference may also be used to:

(A) Provide an opportunity for DHS and the parent to settle the matter;

(B) Ensure the child's parent understands the reason for the action that is the subject of the hearing request;

(C) Give the parent an opportunity to review the information that is the basis for that action;

(D) Inform the parent of the rules that serve as the basis for the contested action;

(E) Give the parent and DHS the chance to correct any misunderstanding of the facts;

(F) Determine if the parent wishes to have any witness subpoenas issued; and

(G) Give DHS an opportunity to review its action.

(j) The child's parent may, at any time prior to the hearing date, request an additional conference with the DHS representative. At the DHS representative's discretion, the DHS representative may grant an additional conference if it facilitates the hearing process.

(k) DHS may provide the parent the relief sought at any time before the final order is issued.

(l) A parent may withdraw a hearing request at any time prior to the issuance of a final order. The withdrawal shall be effective on the date DHS or the Office of Administrative Hearings receives it. DHS must issue a final order confirming the withdrawal to the last known address of the child's parent. The child's parent may cancel the withdrawal up to 10 working days following the date the final order is issued.

(2) PROPOSED AND FINAL ORDERS.

(a) In a contested case, the administrative law judge must serve a proposed order on the child and DHS.

(b) If the administrative law judge issues a proposed order that is adverse to the child, the child's parent may file exceptions to the proposed order to be considered by DHS. The exceptions must be in writing and must be received by DHS no later than 10 days after service of the proposed order. The child's parent may not submit additional evidence after this period unless DHS grants prior approval.

(c) After receiving the exceptions, if any, DHS may adopt the proposed order as the final order or may prepare a new order. Prior to issuing the final order, DHS may issue an amended proposed order.

(3) The performing or billing provider must submit relevant documentation to DHS within five working days at the request of DHS when a hearing has been requested.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.340 - 417.355, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08

411-355-0120

Sanctions for MICP Providers

(1) Sanctions may be imposed on a provider when any of the following conditions is determined by SPD to have occurred:

(a) The provider has been convicted of any crime that would have resulted in an unacceptable criminal history check upon hiring or issuance of a provider number;

(b) The provider has been convicted of unlawfully manufacturing, distributing, prescribing, or dispensing a controlled substance;

(c) The provider's license has been suspended, revoked, otherwise limited, or surrendered;

(d) The provider has failed to safely and adequately provide the MICP services authorized as determined by the parent or the service coordinator;

(e) The provider has had an allegation of abuse or neglect substantiated against them;

(f) The provider has failed to cooperate with any investigation or grant access to or furnish, as requested, records or documentation;

(g) The provider has billed excessive or fraudulent charges or has been convicted of fraud;

(h) The provider has made a false statement concerning conviction of crime or substantiation of abuse;

(i) The provider has falsified required documentation;

(j) The provider has not adhered to the provisions of these rules; or

(k) The provider has been suspended or terminated as a provider by another division within DHS.

(2) SPD may impose the following sanctions on a provider:

(a) Termination from participation in the MICP;

(b) Suspension from participation in the MICP for a specified length of time or until specified conditions for reinstatement are met and approved by SPD; or

(c) Payments to the provider may be withheld.

(3) If SPD makes a decision to sanction a provider, the provider must be notified by mail of the intent to sanction.

(a) The provider may appeal a sanction by requesting an administrative review by the Assistant Director of SPD.

(b) For an appeal to be valid, written notice of the appeal must be received by SPD within 45 days of the date the sanction notice was mailed to the provider.

(c) The provider must appeal a sanction separately from any appeal of audit findings and overpayments.

(4) At the discretion of SPD, providers who have previously been terminated or suspended by any division within DHS may not be re-enrolled as providers of Medicaid services.

Stat. Auth.: ORS 409.050 & 417.345

Stats. Implemented: ORS 417.340 - 417.355, 427.007 & 430.215

Hist.: SPD 5-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; SPD 14-2008, f. & cert. ef. 10-9-08

Department of Justice

Chapter 137

Rule Caption: Clarifies requirements for periodic review and modification of child support orders.

Adm. Order No.: DOJ 12-2008(Temp)

Filed with Sec. of State: 10-1-2008

Certified to be Effective: 10-1-08 thru 3-29-09

Notice Publication Date:

Rules Amended: 137-055-3420

Subject: This rule is amended to clarify that when a party submits a written request for review of his or her support order and 35 months

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have elapsed since the order took effect or was last reviewed, the administrator will initiate a review.

Rules Coordinator: Vicki Tungate—(503) 986-6086

137-055-3420

Periodic Review and Modification of Child Support Order Amounts

(1) In addition to the definitions found in ORS 25.321, OAR 137-050-0320, 137-050-0410 and 137-050-0430, for the purposes of this rule, the following definitions apply:

(a) "Determination" means an order resulting from a periodic review, which finds that the current order of support is in "substantial compliance" with the Oregon guidelines and appropriate health care coverage or cash medical support is ordered against one or both parties.

(b) "Guidelines" means the formula, the scale, and related provisions in OARs 137-050-0320 through 137-050-0490.

(c) "Periodic Review" means proceedings initiated under ORS 25.287.

(d) "Review" means an objective evaluation by the administrator of the information necessary for application of the guidelines to determine:

(A) The presumptively correct child support amount; and

(B) The need to provide in the order for the child's health care needs through appropriate health care coverage or cash medical support regardless of whether an adjustment in the amount of child support is necessary.

(e) "Substantial compliance" means that the current support order is within at least 15 percent or \$50, whichever is less, of the presumptively correct child support amount as calculated using the guidelines. When making this determination, the 15 percent or \$50 formula will be applied to the currently ordered support amount.

(2) For all child support cases receiving support enforcement services under ORS 25.080, the Child Support Program (CSP) will annually notify the parties:

(a) Of their right to request a periodic review of the amount of support ordered; and

(b) That the CSP will perform a mandatory periodic review and adjustment if the family is currently receiving TANF.

(3) The purpose of a periodic review is to determine, based on information from the parties and other sources as appropriate, whether the current child support order should be modified to ensure substantial compliance with Oregon's child support guidelines, or to order appropriate health care coverage or cash medical support for the child(ren).

(4) The administrator will initiate a periodic review if a written request for periodic review is received from any party and 36 months have passed since the date the most recent support order took effect, or the date of a determination that the most recent support order should not be adjusted.

(5) The administrator will initiate a periodic review when 36 months have passed since the date the most recent support order took effect, or the date of a determination that the most recent support order should not be adjusted, and the family is currently receiving TANF.

(6) The administrator must complete the determination that the order is in substantial compliance with the guidelines and appropriate health care coverage or cash medical support is ordered, or complete the modification of the existing order within 180 days of receiving a written request for a periodic review, initiating the mandatory review, or locating the non-requesting party(ies), if necessary, whichever occurs later.

(7) The administrator is responsible for conducting a periodic review in this state or for requesting that another state conduct a review pursuant to OAR 137-055-7190. As provided in ORS 110.429 and 110.432, the law of the state reviewing the order applies in determining if a basis for modification exists.

(8) Upon receipt of a written request for a periodic review or when a mandatory periodic review is required, the administrator will notify the parties of the review in writing. The notice must advise the parties:

(a) Of the opportunity to provide information, with regard to themselves and the other party(ies) if known, which might affect the administrator's calculation of the presumed correct support amount under the child support guidelines and the need to order appropriate health care coverage or cash medical support, and that each party has 30 days from the date of the notice to provide such information in writing to the administrator;

(b) That the administrator will consider written information received from any party prior to calculating the presumed correct amount of support or ordering appropriate health care coverage or cash medical support;

(c) That the administrator will not conduct a review until 30 days have passed since the date of the notice unless documentation or written information is received from the parties before the 30 days have passed; and

(d) That a modification to the support amount will affect only support owing on or after the date of service on the last non-requesting party.

(9) The administrator will notify the parties in writing of the presumed correct support amount under the child support guidelines and the need to order appropriate health care coverage or cash medical support.

(10) This notification:

(a) May be by service of a proposed determination that the existing order is in substantial compliance with the guidelines and appropriate health care coverage or cash medical support is already ordered to be provided, or

(b) May be by service of a motion or petition to modify the current support order, pursuant to applicable statutes and administrative rules;

(c) Must advise the parties that each party has 30 days from the date of service of the notice to object to the determination or proposed modification in writing if they so choose, and that the order will not be final until at least the 30 day period has passed;

(d) Must include the request for hearing form for each of the parties if the administrator uses an administrative determination or motion form; and

(e) Must be sent to an adult child who has requested notification of any modification proceeding pursuant to ORS 107.108.

(11) If the administrator determines that the support order should be modified and there is an adult child on the case, the proposed modification will be a tiered order as defined in OAR 137-055-1020.

(12) If a party wishes to object to the proposed determination or modification, the party must file a written request for hearing with the administrator or court before the 30 day period has passed.

(13) Upon receipt of a written request for hearing opposing the proposed determination or modification, the administrator will:

(a) Review the case to determine whether the monetary child support or medical child support provisions, should be redetermined and, if so, notify the parties of the new presumed support amount or medical child support provisions;

(b) Seek a consent order; or

(c) Ensure that the matter is set for hearing if no other resolution is achieved; and

(d) Send a copy of the proposed determination and hearing request to an adult child who has requested notification of any modification proceeding pursuant to ORS 107.108

(14) If no request for hearing is filed within the 30 day period, the administrator will submit the determination or modification of the support order to the circuit court for entry in the court register.

(15) If a hearing is held on a determination and the administrative law judge makes a finding that the order is not in substantial compliance with the guidelines, does not order appropriate health care coverage, or an amount towards cash medical support, the administrative law judge must enter a modified order that complies with the guidelines.

(16) An appeal under this rule will be as provided in ORS 25.287.

(17) No provision of this rule precludes the parties from obtaining the services of private legal counsel at any time to pursue modification of the support order pursuant to all applicable laws.

Stat. Auth.: ORS 180.345 & 416.455

Stats. Implemented: ORS 25.080, 25.287, 25.321 - 25.343, 107.135 & 416.425

Hist.: AFS 65-1989, f. 10-31-89, cert. ef. 11-1-89; AFS 11-1992(Temp), f. & cert. ef. 4-30-92; AFS 26-1992, f. & cert. ef. 9-30-92; AFS 20-1993, f. 10-11-93, cert. ef. 10-13-93; AFS 21-1994, f. 9-13-94, cert. ef. 12-1-94; AFS 17-1997(Temp), f. & cert. ef. 9-16-97; AFS 17-1997(Temp) Repealed by AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 75-1998, f. 9-11-98, cert. ef. 9-15-98; AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 9-2000, f. 3-13-00, cert. ef. 4-1-00; AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0072; AFS 23-2001, f. 10-2-01, cert. ef. 10-6-01; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3420; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3420; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 4-2005, f. & cert. ef. 4-1-05; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f. & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; DOJ 11-2008(Temp), f. & cert. ef. 7-15-08 thru 9-30-08; DOJ 12-2008(Temp), f. & cert. ef. 10-1-08 thru 3-29-09

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Rule Caption: Clarifies requirements for passport restriction and support distribution and disbursement.

Adm. Order No.: DOJ 13-2008

Filed with Sec. of State: 10-1-2008

Certified to be Effective: 10-1-08

Notice Publication Date: 8-1-2008

Rules Amended: 137-055-4540, 137-055-6010, 137-055-6022

Subject: OAR 137-055-4540 has been amended to clarify that a passport which has been denied because of nonpayment of child support will not be reinstated unless the arrears are paid in full or there is a life or death reason to reinstate the passport. The rule has also been amended to clarify that the passport will not be restricted if the

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sole reason for arrears is an upward modification or order for past support.

OAR 137-055-6010 has been amended to add a definition of "pass through." This amendment goes with the amendment to OAR 137-055-6022, and is to implement disbursement of identified assigned support payments to families beginning October 1, 2008.

OAR 137-055-6022 has been amended to describe the manner in which assigned support will be disbursed to families beginning October 1, 2008.

Rules Coordinator: Vicki Tungate—(503) 986-6086

137-055-4540

Passport Denial and Release

(1) When the administrator submits delinquent child support accounts for IRS tax refund offset pursuant to OAR 137-055-4340, the federal Office of Child Support Enforcement (OCSE) will select individual obligors with a total delinquency in excess of \$2,500 for passport denial.

(2) Passport denial means that pursuant to 42 U.S. Code 652(k), the United States Secretary of State will refuse to issue a passport and may revoke, restrict or limit a passport which was previously issued.

(3) The parties will receive notice of passport denial with the notice of tax refund offset specified in OAR 137-055-4340. The notice will advise the parties of the right to an administrative review under 137-055-4340.

(4) An obligor whose passport has been denied may request an administrative review. The administrator will conduct a review and notify the parties of the decision. The only issues that may be considered in the review are whether:

(a) The administrator erroneously submitted the obligor to OCSE for passport denial, such as mistaken identity or an error in recordkeeping or accounting;

(b) The obligor has provided documentation of a life or death situation involving an immediate family member, as defined by OCSE; or

(c) The obligor has paid as ordered, but the arrearage that caused the case to be submitted for passport denial resulted solely from one or more orders for past support or upward modifications filed in court within one year of the administrator's receipt of the request for review.

(5) If at any time the administrator finds that the obligor qualifies for passport release under one or more of the criteria in subsections (4)(a) through (4)(c), the administrator will notify OCSE to release the passport.

(6) Passport denial will continue until the delinquency is paid in full, unless the administrator determines the obligor qualifies for passport release under this rule.

(7) Where a passport has been denied and the obligor has paid the delinquency in full or the administrator determines the obligor qualifies for passport release under this rule, the administrator will notify OCSE to release the passport. Notice will be by the process specified by OCSE.

Stat. Auth.: ORS 25.625 & 180.345

Stats. Implemented: ORS 25.625

Hist.: AFS 23-1997, f. 12-29-97, cert. ef. 1-1-9; AFS 15-2000, f. 5-31-00, cert. ef. 6-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0234; AFS 2-2001, f. 1-31-01, cert. ef. 2-1-01; AFS 15-2001, f. 7-31-01, cert. ef. 8-1-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4540; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4540; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f. & cert. ef. 1-3-06; DOJ 6-2006, f. & cert. ef. 10-2-06; DOJ 13-2008, f. & cert. ef. 10-1-08

137-055-6010

Definitions for Distribution and Disbursement

For purposes of OAR 137-055-6020 through 137-055-6024, the following definitions apply:

(1) "Assistance" means cash assistance under Temporary Assistance for Needy Families (TANF) program, or foster care maintenance payments provided by the Department of Human Services (DHS), or cost of care provided by the Oregon Youth Authority (OYA).

(2) "Current support" is the monthly support amount ordered by a court or administrative process for the benefit of a child and/or a former spouse.

(3) "Electronic funds transfer (EFT)" and "Electronic data interchange (EDI)" is the movement of funds and information by nonpaper means, usually through a payment system including, but not limited to, an automated clearing house (ACH), the Federal Reserve's Fedwire system, magnetic tape, direct deposit or stored value card.

(4) "Family's conditionally-assigned arrears" is past-due support that accrues during non-assistance periods, and was not permanently assigned under pre-October 1997 assignments, which revert back to the family on either October 1, 2000, if the family terminates assistance prior to October 1, 2000, or on the date the family leaves the assistance program if on or after October 1, 2000. Family's conditionally-assigned arrears revert to state's temporarily-assigned arrears during periods that the family receives assistance.

(5) "Family's unassigned arrears" is past-due support which accrues after the family's most recent period of assistance, or at any time in the case where a family has never received assistance.

(6) "Family's unassigned arrears during assistance period" is past-due support which accumulates while a family receives assistance and exceeds the total amount of unreimbursed assistance paid to the family.

(7) "Future support" is an amount received which represents payment on current support or arrears for future months.

(8) Pass-through is current support for a child or children, which is assigned for TANF but is disbursed to the obligee before any remaining amount of current support is retained by the state.

(9) "State's permanently-assigned arrears" is:

(a) Past-due support which accrues during the period the family receives assistance and past-due support which accrued before the family applied for assistance in pre-October 1997 assignments only; or

(b) Advance payments owed to the State of Oregon under OAR 137-055-6210.

(10) "State's temporarily-assigned arrears" is past-due support assigned to the state during assistance periods, but which accrued during non-assistance periods, and were not permanently assigned under pre-October 1997 assignments. As of October 1, 2000, state's temporarily-assigned arrears revert to family's conditionally-assigned arrears during periods that the family is not receiving assistance.

(11) "Unreimbursed assistance" means the cumulative amount of assistance paid to a family or on behalf of a child(ren) for all months which has not been recovered by assigned support collections. The total amount of unreimbursed assistance that may be recovered is limited by the total amount of the assigned support obligation.

Table 1 is included in this rule as an aid in understanding the arrears types defined in this rule. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 25.020 & 180.345

Stats. Implemented: ORS 25.020; 412.024 & 418.032

Hist.: DOJ 1-2007, f. & cert. ef. 1-2-07; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; DOJ 13-2008, f. & cert. ef. 10-1-08

137-055-6022

Distribution and Disbursement When Support Assigned

The terms used in this rule have the meanings set out in OAR 137-055-1020 and 137-055-6010.

(1) Except as provided in OAR 137-055-6021, 137-055-6023 and 137-055-6024, the Department of Justice (DOJ) will distribute and, as appropriate, disburse support payments received on behalf of a family receiving assistance in the following sequence:

(a) Current support to the state, not to exceed the amount of unreimbursed assistance unless the state is making foster care maintenance payments on behalf of the child(ren);

(b) State's permanently-assigned arrears, not to exceed the amount of unreimbursed assistance unless the state is making foster care maintenance payments on behalf of the child(ren);

(c) State's temporarily-assigned arrears, not to exceed the amount of unreimbursed assistance unless the state is making foster care maintenance payments on behalf of the child(ren);

(d) Family's unassigned arrears during assistance period unless the state is making foster care maintenance payments on behalf of the child(ren);

(e) If the state is making foster care maintenance payments on behalf of the child(ren), support payments in excess of unreimbursed assistance, up to the total support obligation owed, will be reported as excess and be paid to Department of Human Services (DHS) to be used in the manner it determines will serve the best interests of the child(ren).

(2) Except as provided in section (3) of this rule, DOJ will distribute and, as appropriate, disburse support payments received on behalf of a family who formerly received assistance in the following sequence:

(a) Current support to the family;

(b) Family's unassigned arrears;

(c) Family's conditionally-assigned arrears;

(d) State's permanently-assigned arrears, not to exceed the amount of unreimbursed assistance;

(e) Family's unassigned arrears during assistance period.

(3) DOJ will distribute and, as appropriate, disburse support payments received from federal tax refund intercepts in the following sequence:

(a) State's permanently-assigned arrears not to exceed the amount of unreimbursed assistance;

(b) State's temporarily-assigned arrears, not to exceed the amount of unreimbursed assistance;

(c) Family's conditionally-assigned arrears not to exceed the amount of unreimbursed assistance;

(d) Family's unassigned arrears.

(4) DOJ will distribute and, as appropriate, disburse support payments received from state tax refund intercepts in the following sequence:

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- (a) Current support;
 - (b) Family's unassigned arrears;
 - (c) Family's conditionally assigned arrears;
 - (d) State's permanently assigned arrears, not to exceed the amount of unreimbursed assistance;
 - (e) State's temporarily assigned arrears, not to exceed the amount of unreimbursed assistance;
 - (f) Parentage testing fee.
- (5) Whenever support payments are assigned to the state, the state share of the payments will be either:
- (a) Disbursed to DHS if funds were expended to provide foster care assistance to the family;
 - (b) Disbursed to Oregon Youth Authority (OYA) if funds were expended by OYA to provide care to a member of the family; or
 - (c) Retained by the Department of Justice (DOJ) if funds were expended to provide Temporary Assistance for Needy Families (TANF) cash assistance to the family, except:
- (A) As payments are received each month, DOJ will pass through to the obligee no more than \$50 for each dependent child, up to a maximum of \$200 per month, not to exceed the current support due that month.
- (B) Current support collected from each obligor may only be passed through for the child(ren) of that obligor, even if the maximum pass-through has not been met.
- (6) Whenever support payments are assigned to a Tribe, the Tribe's share of the payments will be disbursed to the Tribe as provided in 42 USC 657.

Stat. Auth.: ORS 25.020; ORS 180.345
Stats. Implemented: ORS 25.020; 25.150
Stat. Auth.: ORS 25.020 & 180.345
Stats. Implemented: ORS 25.020 & 25.150
Hist.: DOJ 9-2005, f. & cert. ef. 10-3-05; DOJ 1-2007, f. & cert. ef. 1-2-07; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; DOJ 13-2008, f. & cert. ef. 10-1-08

Rule Caption: Clarifies requirements for review and modification of support orders and advance payments of child support.

Adm. Order No.: DOJ 14-2008(Temp)

Filed with Sec. of State: 10-7-2008

Certified to be Effective: 10-7-08 thru 3-29-09

Notice Publication Date:

Rules Amended: 137-055-3420, 137-055-6210

Rules Suspended: 137-055-3420(T)

Subject: OAR 137-0553420 is amended to clarify that a periodic review to ensure compliance with the child support guidelines will be initiated on a support order for a family receiving Temporary Assistance to Needy Families (TANF) when the order is at least 35 months old. Additionally, the rule is amended to clarify that when a party submits a written request for review of his or her support order and 35 months have elapsed since the order took effect or was last reviewed, the administrator will initiate a review.

OAR 137-055-6210 is amended to clarify that the department will collect the amount of any advance payment from the person who received it by removing the amount from arrears owed to the payee, temporarily-assigned arrears or conditional-assigned arrears, and assigning that amount to the state as permanently-assigned arrears under OAR 137-055-6010.

Rules Coordinator: Vicki Tungate—(503) 986-6086

137-055-3420

Periodic Review and Modification of Child Support Order Amounts

(1) In addition to the definitions found in ORS 25.321, OAR 137-050-0320, 137-050-0410, 137-050-0430, for the purposes of this rule, the following definitions apply:

(a) "Determination" means an order resulting from a periodic review, which finds that the current order of support is in "substantial compliance" with the Oregon guidelines and appropriate health care coverage or cash medical support is ordered against one or both parties.

(b) "Guidelines" means the formula, the scale, and related provisions in OARs 137-050-0320 through 137-050-0490.

(c) "Periodic Review" means proceedings initiated under ORS 25.287.

(d) "Review" means an objective evaluation by the administrator of the information necessary for application of the guidelines to determine:

- (A) The presumptively correct child support amount; and
- (B) The need to provide in the order for the child's health care needs through appropriate health care coverage or cash medical support regardless of whether an adjustment in the amount of child support is necessary.

(e) "Substantial compliance" means that the current support order is within at least 15 percent or \$50, whichever is less, of the presumptively correct child support amount as calculated using the guidelines. When making this determination, the 15 percent or \$50 formula will be applied to the currently ordered support amount.

(2) For all child support cases receiving support enforcement services under ORS 25.080, the Child Support Program (CSP) will annually notify the parties:

(a) Of their right to request a periodic review of the amount of support ordered; and

(b) That the CSP will perform a mandatory periodic review and adjustment if the family is currently receiving TANF.

(3) The purpose of a periodic review is to determine, based on information from the parties and other sources as appropriate, whether the current child support order should be modified to ensure substantial compliance with Oregon's child support guidelines, or to order appropriate health care coverage or cash medical support for the child(ren).

(4) The administrator will initiate a periodic review if a written request for periodic review is received from any party and 35 months have passed since the date the most recent support order took effect, or the date of a determination that the most recent support order should not be adjusted.

(5) The administrator will initiate a periodic review when 35 months have passed since the date the most recent support order took effect, or the date of a determination that the most recent support order should not be adjusted, and the family is currently receiving TANF.

(6) The administrator must complete the determination that the order is in substantial compliance with the guidelines and appropriate health care coverage or cash medical support is ordered, or complete the modification of the existing order within 180 days of receiving a written request for a periodic review, initiating the mandatory review, or locating the non-requesting party(ies), if necessary, whichever occurs later.

(7) The administrator is responsible for conducting a periodic review in this state or for requesting that another state conduct a review pursuant to OAR 137-055-7190. As provided in ORS 110.429 and 110.432, the law of the state reviewing the order applies in determining if a basis for modification exists.

(8) Upon receipt of a written request for a periodic review or when a mandatory periodic review is required, the administrator will notify the parties of the review in writing. The notice must advise the parties:

(a) Of the opportunity to provide information, with regard to themselves and the other party(ies) if known, which might affect the administrator's calculation of the presumed correct support amount under the child support guidelines and the need to order appropriate health care coverage or cash medical support, and that each party has 30 days from the date of the notice to provide such information in writing to the administrator;

(b) That the administrator will consider written information received from any party prior to calculating the presumed correct amount of support or ordering appropriate health care coverage or cash medical support;

(c) That the administrator will not conduct a review until 30 days have passed since the date of the notice unless documentation or written information is received from the parties before the 30 days have passed; and

(d) That a modification to the support amount will affect only support owing on or after the date of service on the last non-requesting party.

(9) The administrator will notify the parties in writing of the presumed correct support amount under the child support guidelines and the need to order appropriate health care coverage or cash medical support.

(10) This notification:

(a) May be by service of a proposed determination that the existing order is in substantial compliance with the guidelines and appropriate health care coverage or cash medical support is already ordered to be provided, or

(b) May be by service of a motion or petition to modify the current support order, pursuant to applicable statutes and administrative rules;

(c) Must advise the parties that each party has 30 days from the date of service of the notice to object to the determination or proposed modification in writing if they so choose, and that the order will not be final until at least the 30 day period has passed;

(d) Must include the request for hearing form for each of the parties if the administrator uses an administrative determination or motion form; and

(e) Must be sent to an adult child who has requested notification of any modification proceeding pursuant to ORS 107.108.

(11) If the administrator determines that the support order should be modified and there is an adult child on the case, the proposed modification will be a tiered order as defined in OAR 137-055-1020.

(12) If a party wishes to object to the proposed determination or modification, the party must file a written request for hearing with the administrator or court before the 30 day period has passed.

(13) Upon receipt of a written request for hearing opposing the proposed determination or modification, the administrator will:

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(a) Review the case to determine whether the monetary child support or medical child support provisions, should be redetermined and, if so, notify the parties of the new presumed support amount or medical child support provisions;

(b) Seek a consent order; or

(c) Ensure that the matter is set for hearing if no other resolution is achieved; and

(d) Send a copy of the proposed determination and hearing request to an adult child who has requested notification of any modification proceeding pursuant to ORS 107.108.

(14) If no request for hearing is filed within the 30 day period, the administrator will submit the determination or modification of the support order to the circuit court for entry in the court register.

(15) If a hearing is held on a determination and the administrative law judge makes a finding that the order is not in substantial compliance with the guidelines, does not order appropriate health care coverage, or an amount towards cash medical support, the administrative law judge must enter a modified order that complies with the guidelines.

(16) An appeal under this rule will be as provided in ORS 25.287.

(17) No provision of this rule precludes the parties from obtaining the services of private legal counsel at any time to pursue modification of the support order pursuant to all applicable laws.

Stat. Auth.: ORS 180.345 & 416.455

Stats. Implemented: ORS 25.080, 25.287, 25.321 - 25.343, 107.135 & 416.425

Hist.: AFS 65-1989, f. 10-31-89, cert. ef. 11-1-89; AFS 11-1992(Temp), f. & cert. ef. 4-30-92; AFS 26-1992, f. & cert. ef. 9-30-92; AFS 20-1993, f. 10-11-93, cert. ef. 10-13-93; AFS 21-1994, f. 9-13-94, cert. ef. 12-1-94; AFS 17-1997(Temp), f. & cert. ef. 9-16-97; AFS 17-1997(Temp) Repealed by AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 75-1998, f. 9-11-98, cert. ef. 9-15-98; AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 9-2000, f. 3-13-00, cert. ef. 4-1-00; AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0072; AFS 23-2001, f. 10-2-01, cert. ef. 10-6-01; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3420; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3420; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 4-2005, f. & cert. ef. 4-1-05; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f. & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; DOJ 11-2008(Temp), f. & cert. ef. 7-15-08 thru 9-30-08; DOJ 12-2008(Temp), f. & cert. ef. 10-1-08 thru 3-29-09; DOJ 14-2008(Temp), f. & cert. ef. 10-7-08 thru 3-29-09

137-055-6210

Advance Payments of Child Support

(1) "Advance payment" means:

(a) The Department of Justice (DOJ) has transmitted money to an obligee or to a person or entity authorized to receive support payments;

(b) The amount does not exceed the total arrears available for assignment to the state;

(c)(A) DOJ has applied the money incorrectly through no fault or error of the payee; or

(B) The amount transmitted by DOJ is attributable in whole or in part to a tax refund offset collection, all or part of which has been reclaimed by the Internal Revenue Service or the Oregon Department of Revenue; and

(d) The payment is not the result of a dishonored check.

(2) If the obligor is deceased and without assets or an estate, the provisions of this rule do not apply, but the provisions of OAR 137-055-6220 apply.

(3) The person who receives an advance payment owes the amount of the advance payment to DOJ.

(4) Instead of directly collecting the amount of the advance payment from the person who received it, the amount will be removed from the arrears owed to the payee, temporarily-assigned arrears or conditionally-assigned arrears and will be assigned to the state as permanently-assigned arrears under OAR 137-055-6010. DOJ will notify the payee in writing of the:

(a) Amount to be collected as permanently-assigned arrears;

(b) Right to object and request an administrative review.

(5) When an objection is received, DOJ will conduct an administrative review and notify the payee in writing of the:

(a) Determination resulting from the review; and

(b) Right to challenge the determination by judicial review under ORS 183.484.

(6) Notwithstanding the provisions of section (4) of this rule, designation of permanently-assigned arrears to recover advance payments does not affect whether a case is assigned to DOJ as provided in OAR 137-055-2020 or a district attorney office as provided in 137-055-2040.

(7) For the purposes of this rule, a "dishonored check" is not one which has been paid or made negotiable.

Stat. Auth.: ORS 180.345

Stats. Implemented: ORS 25.020

Hist.: DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 16-2004, f. 12-30-04, cert. ef. 1-3-05; DOJ 9-2005, f. & cert. ef. 10-3-05; DOJ 1-2006, f. & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06; DOJ 1-2007, f. & cert. ef. 1-2-07; DOJ 14-2008(Temp), f. & cert. ef. 10-7-08 thru 3-29-09

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

Rule Caption: Adopt current version of Oregon Fire Code.

Adm. Order No.: OSFM 7-2008

Filed with Sec. of State: 9-26-2008

Certified to be Effective: 10-1-08

Notice Publication Date: 9-1-2008

Rules Amended: 837-020-0040

Subject: Adopt 2007 Edition of the Oregon Fire Code.

Rules Coordinator: Pat Carroll—(503) 373-1540, ext. 276

837-020-0040

General

(1) *Nonretail facility and conditional nonretail facility operators* desiring to engage in nonretail facility or conditional nonretail facility operations must comply with all applicable state, federal and local laws, rules and regulations including, but not limited to:

(a) ORS 480.310 through 480.385;

(b) OAR 837-020-0025 through 837-020-0125;

(c) **Oregon Fire Code, 2007 Edition;**

(d) OAR chapter 837, division 85 — Hazardous Materials Reporting;

and

(e) NFPA 30 and 30A.

(2) In addition to other applicable provisions of law, each nonretail facility and conditional nonretail facility must meet the following requirements as per OAR 837-020-0040:

(a) Proper drainage grades or curbs must be situated to prevent any spills from flowing towards any building or other pump islands;

(b) Locations for the emergency fuel shut off devices must be clearly and conspicuously posted;

(c) Instructions for the operation of nonretail dispensers must be clearly and conspicuously posted;

(d) Locations of all fire extinguishers must be clearly and conspicuously posted;

(e) Fire extinguishers must be accessible;

(f) Be adequately lighted at all times when available for use;

(g) A fire alarm transmitting device or a telephone not requiring a coin or credit card to operate must be provided, and be accessible, at each nonretail facility and conditional nonretail facility during all hours of operation. This equipment must be maintained in good working order in the event emergency assistance is needed; and

(h) All applicable provisions of the OFC must be met.

(3) All nonretail facilities and conditional nonretail facilities must have the following warning signs posted. These signs must be readily visible and readable from each Class 1 flammable liquid dispensing pump from a distance of ten feet and state:

(a) Smoking is prohibited;

(b) Vehicle engines must be shut off while fueling;

(c) The nonretail facility or conditional use facility address;

(d) The telephone number of the owner or operator;

(e) Do not fill unapproved containers;

(f) Portable containers must be removed from inside the trunk, passenger compartment, or truck bed of a vehicle and placed on the ground before filling.

(g) It is a violation of law, subject to penalty, to dispense Class 1 flammable liquids without first receiving the training required by OAR 837-020-0055; and

(h) It is a violation of law, subject to penalty, to dispense Class 1 flammable liquids for personal use or into motor vehicles or containers not owned or used by a business, government, non-profit, or charitable organization, per ORS 480.345(4), (not required at conditional nonretail facilities).

(i) Discharge your static electricity before fueling by touching a metal surface away from the nozzle.

(j) To prevent static charge, do not reenter your vehicle while gasoline is pumping.

(k) If a fire starts, do not remove nozzle, use emergency fuel shut off.

(4) In addition to the provisions required by OAR 837-020-0040, nonretail dual operation facilities separated by distance must:

(a) Have signs visible from each driveway access point identifying the retail and nonretail pump islands. Signs must be readily visible and readable, be at least three feet by four feet in size, and have a minimum height of six inch letters on a contrasting background;

(b) Where retail and nonretail dispensing of Class 1 flammable liquids occurs during the same hours, nonretail pump islands must be separated from retail pump islands by a space of at least 50 feet. Nonretail and retail

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pump islands may be separated by a distance of no less than 20 feet, provided prior approval is given by the State Fire Marshal, and that one of the following barriers is present:

(A) An approved solid physical barrier or a solid wall at least four feet high, constructed of fire resistive materials, and which runs the entire length of the pump island; or

(B) A fire resistive building, meeting the requirements of the building code.

(c) Unless pump islands are separated by at least 50 feet (20 feet with an approved barrier), retail and nonretail dispensing may not occur during the same hours at a facility.

(d) Where retail and nonretail dispensing is separated only by time, signs must be visible from each driveway access point and each Class 1 flammable liquid dispensing pump stating the days and hours that separate retail and nonretail operations occur. These signs must be readily visible and readable, be at least three feet by four feet in size, and have a minimum height of six inch letters on a contrasting background.

(5) At least 45 days prior to the start of intended operations, the facility owner or operator of each new nonretail facility and conditional nonretail facility covered by OAR 837-020-0040 must file the appropriate license application forms and certifications with the State Fire Marshal.

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

Stat. Auth.: ORS 480.380

Stats. Implemented: ORS 480.310 - 480.385

Hist.: FM 4-1992, f. 6-15-92, cert. ef. 7-15-92; FM 2-1995, f. 10-11-95, cert. ef. 10-16-95; OSFM 1-2002, f. & cert. ef. 2-25-02; OSFM 10-2002, f. & cert. ef. 12-6-02; OSFM 6-2005, f. 5-24-05, cert. ef. 5-26-05; OSFM 1-2007, f. 3-30-07, cert. ef. 4-1-07; OSFM 7-2008, f. 9-26-08, cert. ef. 10-1-08

Rule Caption: Adopt current editions of NFPA, Oregon Fire Code, and housekeeping changes.

Adm. Order No.: OSFM 8-2008

Filed with Sec. of State: 9-26-2008

Certified to be Effective: 10-1-08

Notice Publication Date: 9-1-2008

Rules Amended: 837-030-0120, 837-030-0130, 837-030-0140, 837-030-0150, 837-030-0160, 837-030-0170, 837-030-0180, 837-030-0190, 837-030-0200, 837-030-0210, 837-030-0220, 837-030-0230, 837-030-0235, 837-030-0240, 837-030-0250, 837-030-0260, 837-030-0270, 837-030-0280

Subject: Adopt current editions of NFPA; Oregon Fire Code; add reference to State Building Codes Division; plus housekeeping changes.

Rules Coordinator: Pat Carroll—(503) 373-1540, ext. 276

837-030-0120

Definitions

(1) For the purpose of these rules, the following definitions apply to OAR 837-030-0100 through 837-030-0280.

(2) Application means the forms required by the Office of State Fire Marshal to be completed and submitted to the Office of State Fire Marshal.

(3) Bulk Plant is a facility where the primary function is to store LP-Gas prior to further distribution. LP-Gas is received by cargo tank vehicle, railroad tank car, or pipeline, and then distributed by portable container (package) delivery, by cargo tank vehicle, or through gas piping.

(4) Company License means the same as an Installation License defined in OAR 837-030-0120(10).

(5) Company Representative means an individual who has passed the installation examination administered by the Office of State Fire Marshal and represents the company at a specific site.

(6) Delivery Unit means any unit that is used to deliver or transport liquefied petroleum gas.

(7) Examination means a document designed to test an applicant's knowledge regarding liquefied petroleum gas, its properties, related equipment and applicable safety regulations.

(8) Fitter License means a license issued to an individual who performs liquefied petroleum gas fitting or gas venting work, installs, repairs or remodels any piping or venting, installs or repairs, connects, or disconnects any liquefied petroleum gas appliance. The types of Fitter Licenses are:

(a) HVAC Fitter — Required for all individuals who perform LPG work on HVAC equipment, including hearth products;

(b) IC Fitter (Internal Combustion) — Required for all individuals who work on internal combustion engines of forklifts and vehicles;

(c) Master Fitter — Required for all individuals who perform LPG fitting or venting work, install, repair or remodel any piping or venting. This license covers all areas of LPG work.

NOTE: Individuals licensed as a fitter prior to May 16, 2005, are considered a Master

Fitter;

(d) RV Fitter — Required for all individuals who work on recreational vehicles (license not required for construction or warranty work for manufactured dwellings or recreational vehicles).

(9) "Individual" means one distinct, individual human being. It does not mean person.

(10) Installation License means a license issued to a company or business (hereinafter referred to as a Company License) that engages in or works at the business of installing, extending, altering or repairing any liquefied petroleum gas appliance or piping, vent or flue connection pertaining to or in connection with liquefied petroleum gas installations.

(11) License means the official written permission granted by the State Fire Marshal for the purpose of working in the liquefied petroleum gas business.

(12) Liquefied Petroleum Gas means any liquid composed predominantly of any of the following hydrocarbons or mixtures of the same: Propane, propylene, butanes (normal butane or isobutane) and butylenes.

(13) "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 or subdivisions.

(14) Truck Equipment Operator License means a license issued to an individual who operates liquefied petroleum gas delivery equipment installed on a motorized vehicle.

Stat. Auth.: ORS 476 & 480

Stats. Implemented: ORS 480.410

Hist.: FM 3-1995, f. & cert. ef. 11-14-95; OSFM 3-1999(Temp), f. & cert. ef. 7-23-99 thru 1-18-00; OSFM 1-2000(Temp), f. & cert. ef. 1-18-00 thru 4-15-00; OSFM 4-2000, f. & cert. ef. 4-12-00; OSFM 16-2005, f. & cert. ef. 11-9-05; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

837-030-0130

Fire and Life Safety Standards

(1) The following National Fire Protection Association Standards (NFPA) are hereby adopted by reference and are the Standards on which the examinations referenced in these rules will be primarily based:

(a) NFPA 54 — National Fuel Gas Code; (2006 Edition); and

(b) NFPA 58 — Liquefied Petroleum Gas Code (2008 Edition).

(c) NFPA 1192 — Standard on Recreational Vehicles (2008 Edition).

(2) Whenever the following phrases or abbreviations appear in the above referenced standards, they mean the following:

(a) Authority Having Jurisdiction means the State Fire Marshal;

(b) **National Electrical Code** means the Oregon Electrical Specialty Code; and

(c) NFPA means the National Fire Protection Association.

(3) The Oregon State Fire Marshal has adopted the Oregon Fire Code, 2007 Edition and Oregon Fire Code Chapter 38, 2007 Edition as amended for inspection and enforcement of liquefied petroleum gas installations pursuant to ORS 476.030(1) and 480.420(1). (Refer to OAR 837, division 40.).

(4) The Oregon State Fire Marshal recognizes the **State of Oregon Building Codes Division** inspection and enforcement authority on those portions of liquefied petroleum gas installations downstream of the first stage regulator. Depending on occupancy classification, these portions may be regulated under the Oregon Mechanical Specialty Code as adopted by OAR 918-440-0010 or the **Oregon Residential Specialty Code** as adopted by OAR 918-480-0005.

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

Stat. Auth.: ORS 476 & 480

Stats. Implemented: ORS 480.420

Hist.: FM 22, f. 11-15-65; FM 59, f. 2-25-72, ef. 3-15-72; FM 62, f. 6-14-73, ef. 7-1-73; FM 66, f. 2-20-75, ef. 3-11-75; FM 1-1981, f. 7-20-81, ef. 8-1-81; FM 6-1985, f. & cert. ef. 9-20-85; FM 1-1987, f. & cert. ef. 3-18-87; FM 6-1987, f. & cert. ef. 10-20-87; FM 3-1995, f. & cert. ef. 11-14-95, Renumbered from 837-030-0010, 837-030-0015, 837-030-0020 & 837-030-0025; OSFM 3-1999(Temp), f. & cert. ef. 7-23-99 thru 1-18-00; OSFM 1-2000(Temp), f. & cert. ef. 1-18-00 thru 4-15-00; OSFM 4-2000, f. & cert. ef. 4-12-00; OSFM 2-2002, f. & cert. ef. 2-25-02; OSFM 2-2004, f. & cert. ef. 1-14-04; OSFM 16-2005, f. & cert. ef. 11-9-05; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

837-030-0140

Licenses Required

(1) A company license is required for any company engaged in the business of installing, extending, altering or repairing any liquefied petroleum gas appliance or piping, vent or flue connection pertaining to or in connection with liquefied petroleum gas installations.

(2) A fitter license is required for any individual performing liquefied petroleum gas fitting, venting, installation or repair or remodel to any piping or venting, installs or repairs, connects, or disconnects any liquefied petroleum gas appliance.

(3) A Truck Equipment Operator license is required for any individual who operates liquefied petroleum gas delivery equipment installed on a motorized vehicle.

(4) Any individual required to have a fitter or truck equipment operator license is also required to have an installation license unless the individual is an employee of an employer who has a company license.

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(5) Company licenses are not transferable. When a company transfers ownership, the new company must complete the licensing process the same as any other new company.

(6) Fitter and truck equipment operator licensees may transfer from company to company without relicensing as long as the license has not expired.

Stat. Auth.: ORS 476 & 480
Stats. Implemented: ORS 480.432

Hist.: FM 52, f. 4-29-71, ef. 5-25-71; FM 6-1985, f. & ef. 9-20-85; FM 6-1987, f. & ef. 10-20-87; FM 5-1988(Temp), f. & cert. 3-31-88; FM 10-1988, f. & cert. ef. 9-19-1988; FM 3-1995, f. & cert. ef. 11-14-95, Renumbered from 837-030-0030; OSFM 3-1999(Temp), f. & cert. ef. 7-23-99 thru 1-18-00; OSFM 1-2000(Temp), f. & cert. ef. 1-18-00 thru 4-15-00; OSFM 4-2000, f. & cert. ef. 4-12-00; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

837-030-0150

Company License (Company Representative)

(1) Each company business or dealership location must obtain a separate company license.

(2) Each location must have a company representative unique to that location.

(3) To qualify the company for a company license, an individual company representative at each location and unique to that location must pass a written examination, as detailed in OAR 837-030-0190, and administered by the Office of State Fire Marshal, with a score of 80 percent or more of the questions answered correctly.

(4) If the company representative transfers or resigns employment with the company, the company must notify the State Fire Marshal, in writing, within two weeks of the transfer or resignation.

(5) The new company representative must meet examination requirements within 60 calendar days of the last date of employment of the preceding company representative.

(6) Exceptions to this requirement for a company license are as follows:

(a) This rule does not apply to liquefied petroleum gas installations made in a manufactured dwelling or recreational vehicle when those installations are made during the construction of the manufactured dwelling or recreational vehicle.

(b) This rule does not apply to warranty work for liquefied petroleum gas installations in a manufactured dwelling or recreational vehicle so long as the work performed falls in the scope of the original manufacturer's warranty issued at the time the home or recreational vehicle was manufactured.

(c) This rule does not apply to a person who holds a valid journeyman plumber's certificate that was issued under ORS 693.060 or who is in an approved journeyman plumber apprenticeship established under ORS 660.

Stat. Auth.: ORS 476 & 480
Stats. Implemented: ORS 480.432

Hist.: FM 52, f. 4-29-71, ef. 5-25-71; FM 6-1985, f. & ef. 9-20-85; FM 6-1987, f. & ef. 10-20-87; FM 5-1988(Temp), f. & cert. 3-31-88; FM 10-1988, f. & cert. ef. 9-19-1988; FM 3-1995, f. & cert. ef. 11-14-95, Renumbered from 837-030-0030; OSFM 3-1999(Temp), f. & cert. ef. 7-23-99 thru 1-18-00; OSFM 1-2000(Temp), f. & cert. ef. 1-18-00 thru 4-15-00; OSFM 4-2000, f. & cert. ef. 4-12-00; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

837-030-0160

Fitter License

(1) Any individual performing liquefied petroleum gas fitting, venting, installation or repair must obtain a fitter license.

(2) To qualify for a fitter license, an individual must pass a written examination, as detailed in OAR 837-030-0190, and administered by the Office of State Fire Marshal, with a score of 80 percent or more of the questions answered correctly.

(3) An individual may work under probationary status only as detailed in OAR 837-030-0180.

(4) A fitter may transfer their license to another company.

(5) The Office of State Fire Marshal must be notified in writing within two weeks of employment by the new company that the fitter's license is to be transferred.

(6) Exceptions to this requirement for a fitter license are as follows:

(a) This rule does not apply to individuals who perform liquefied petroleum gas installations made in a manufactured dwelling or recreational vehicle when those installations are made during the construction of the manufactured dwelling or recreational vehicle.

(b) This rule does not apply to individuals who perform warranty work for liquefied petroleum gas installations in a manufactured dwelling or recreational vehicle so long as the work performed falls in the scope of the original manufacturer's warranty issued at the time the home or recreational vehicle was manufactured.

(c) This rule does not apply to an individual who holds a valid journeyman plumber's certificate that was issued under ORS 693.060 or who is in an approved journeyman plumber apprenticeship established under ORS 660.

Stat. Auth.: ORS 476 & 480
Stats. Implemented: ORS 480.432

Hist.: FM 52, f. 4-29-71, ef. 5-25-71; FM 6-1985, f. & ef. 9-20-85; FM 6-1987, f. & ef. 10-20-87; FM 5-1988(Temp), f. & cert. 3-31-88; FM 10-1988, f. & cert. ef. 9-19-1988; FM 3-1995, f. & cert. ef. 11-14-95, Renumbered from 837-030-0030; OSFM 1-2000(Temp), f. & cert. ef. 1-18-00 thru 4-15-00; OSFM 4-2000, f. & cert. ef. 4-12-00; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

837-030-0170

Truck Equipment Operator License

(1) Any individual operating liquefied petroleum gas delivery equipment installed on a motorized vehicle must obtain a truck equipment operator license.

(2) To qualify for a truck equipment operator license, an individual must pass a written examination, as detailed in OAR 837-030-0190, and administered by the Office of State Fire Marshal, with a score of 80 percent or more of the questions answered correctly.

(3) An individual may work under probationary status only as detailed in OAR 837-030-0180.

(4) A truck equipment operator may transfer their license to another company.

(5) The Office of State Fire Marshal must be notified in writing within two weeks of employment by the new company that the truck equipment operator's license is to be transferred.

Stat. Auth.: ORS 476 & 480
Stats. Implemented: ORS 480.432

Hist.: FM 52, f. 4-29-71, ef. 5-25-71; FM 6-1985, f. & ef. 9-20-85; FM 6-1987, f. & ef. 10-20-87; FM 5-1988(Temp), f. & cert. 3-31-88; FM 10-1988, f. & cert. ef. 9-19-1988; FM 3-1995, f. & cert. ef. 11-14-95, Renumbered from 837-030-0030; OSFM 1-2000(Temp), f. & cert. ef. 1-18-00 thru 4-15-00; OSFM 4-2000, f. & cert. ef. 4-12-00; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

837-030-0180

Probationary Status (On-the-Job Training)

(1) Individuals who desire to obtain a fitter or truck equipment operator license may work up to 60 days of on-the-job training.

(2) The 60 days of training consist of actual work days. (For the purposes of tracking an individual's probationary status, work days are considered to be Monday through Friday unless the company submits documentation to the State Fire Marshal of another work schedule.)

(3) On-the-job training for fitters must be under the supervision of a licensed fitter.

(4) On-the-job training for truck equipment operators must be under the supervision of a licensed truck equipment operator.

(5) Individuals receiving on-the-job training must pass the written examination required under OAR 837-030-0190 and obtain the required license after not more than 60 days probationary period of on-the-job training.

(6) Any individual who exceeds the 60 days probationary status time, and has not yet obtained their fitter or truck equipment operator license, must immediately cease working as a fitter or truck equipment operator until such time as they have obtained the required license.

Stat. Auth.: ORS 476 & 480
Stats. Implemented: ORS 480.432

Hist.: FM 52, f. 4-29-71, ef. 5-25-71; FM 6-1985, f. & ef. 9-20-85; FM 6-1987, f. & ef. 10-20-87; FM 5-1988(Temp), f. & cert. 3-31-88; FM 10-1988, f. & cert. ef. 9-19-1988; FM 3-1995, f. & cert. ef. 11-14-95, Renumbered from 837-030-0030; OSFM 1-2000(Temp), f. & cert. ef. 1-18-00 thru 4-15-00; OSFM 4-2000, f. & cert. ef. 4-12-00; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

837-030-0190

Examinations

(1) Persons applying for installation (company), fitter or truck equipment operator licenses must pass a written examination, administered by the Office of State Fire Marshal, with a score of 80 percent or more of the questions answered correctly on each applicable section of the examination.

(2) Examinations for fitter and truck equipment operator licenses assess the individual's knowledge of liquefied petroleum gas, its properties, related equipment, and applicable codes, statutes and safety regulations.

(3) Examinations for the company representative assess the individual's knowledge of applicable codes, statutes, safety regulations, Oregon Revised Statutes and Oregon Administrative Rules that regulate and govern liquefied petroleum gas.

(4) License qualifying examinations have the following maximum time limits:

(a) Company Representative — 1 hour;

(b) Master Fitter — 2.25 hours;

(c) Truck Equipment Operator — 1.50 hours;

(d) Company Representative, Fitter, Truck Equipment Operator Combination — 3.75 hours;

(e) Company Representative, Fitter Combination — 2.75 hours;

(f) Company Representative, Truck Equipment Operator Combination — 2 hours;

(g) Fitter, Truck Equipment Operator Combination — 3.25 hours;

(h) IC Fitter — 1.50 hours;

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- (i) RV Fitter — 1.50 hours;
- (j) HVAC Fitter — 1.50 hours;
- (k) Company Representative, RV Fitter — 2 hours;
- (l) Company Representative, HVAC Fitter — 2 hours;
- (m) Company Representative, IC Fitter — 2 hours.

(5) Examinations are open book, however, all examinations are required to have an on-site examination proctor that is present throughout the examination process to assure that appropriate testing processes are adhered to. No individual person completing an examination can use any information other than the information referenced in these rules to complete the examination, nor can they use any other means to obtain a passing score on the examination. Removal of the examination or the answer sheet from the examination site will result in automatic failure of the examination.

(6) Examinations will be based primarily on the standards referenced in OAR 837-030-0130, ORS 480.410 through 480.460, 480.990, and OAR 837-030-0100 through 837-030-0280.

(7) All applications to take examination must be made on a form provided by the Office of State Fire Marshal and must be accompanied by the fee required in ORS 480.434.

(8) Upon receipt of a properly completed application and fee, the Office of State Fire Marshal will notify the applicant of a time and place for examination.

(9) If an applicant fails to arrive at the scheduled examination appointment, fails to complete the examination, or fails to pass the examination, the applicant must submit to the Office of State Fire Marshal a new application and fee pursuant to ORS 480.434.

(10) License holders and persons previously licensed are not required to complete new examinations unless a period of two years or more has elapsed from the date of their last license expiration date.

(11) Notification of examination results will be mailed to the company following the completion of the examination process.

(12) The State Fire Marshal reserves the right to disqualify an applicant's examination score for valid cause.

Stat. Auth.: ORS 476 & 480
Stats. Implemented: ORS 480.434
Hist.: FM 52, f. 4-29-71, ef. 5-25-71; FM 6-1985, f. & ef. 9-20-85; FM 6-1987, f. & ef. 10-20-87; FM 5-1988(Temp), f. & cert. 3-31-88; FM 10-1988, f. & cert. ef. 9-19-1988; FM 3-1995, f. & cert. ef. 11-14-95, Renumbered from 837-030-0030; OSFM 1-2000(Temp), f. & cert. ef. 1-18-00 thru 4-15-00; OSFM 4-2000, f. & cert. ef. 4-12-00; OSFM 16-2005, f. & cert. ef. 11-9-05; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

837-030-0200

License Application, Approval, Issuance

(1) All license applications must be on a form provided by the Office of State Fire Marshal.

(2) License applications may not be submitted until the applicant has passed the appropriate qualifying examination.

(3) The completed application form must contain the following:

- (a) Applicant's name;
 - (b) Type of license applied for;
 - (c) Name and address of the company;
 - (d) Signature of the company representative; and
 - (e) Company number assigned by the Office of State Fire Marshal.
- (4) Applications must be accompanied by the appropriate license fee.
- (5) Upon approval of the application, a license will be issued and mailed to the company.

(6) Company licenses are valid for a period of one year from date of issue. Fitter and truck equipment operator licenses are valid for a period of two years from date of issue. If the examinee has not applied for and been issued a license within two years from the date of completion of the examination in which the passing score was received, the examination score will be invalid and the applicant must re-take and pass the examination.

Stat. Auth.: ORS 476 & 480
Stats. Implemented: ORS 480.434
Hist.: FM 52, f. 4-29-71, ef. 5-25-71; FM 6-1985, f. & ef. 9-20-85; FM 6-1987, f. & ef. 10-20-87; FM 5-1988(Temp), f. & cert. 3-31-88; FM 10-1988, f. & cert. ef. 9-19-1988; FM 3-1995, f. & cert. ef. 11-14-95, Renumbered from 837-030-0030; OSFM 3-1999(Temp), f. & cert. ef. 7-23-99 thru 1-18-00; OSFM 1-2000(Temp), f. & cert. ef. 1-18-00 thru 4-15-00; OSFM 4-2000, f. & cert. ef. 4-12-00; OSFM 2-2002, f. & cert. ef. 2-25-02; OSFM 16-2005, f. & cert. ef. 11-9-05; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

837-030-0210

License Revocation, Suspension or Denial

(1) The State Fire Marshal may revoke, suspend, or refuse to issue or renew a license required under ORS 480.410 to 480.460. Any such revocation, suspension, or refusal to issue must be in conformance with ORS 183.310 to 183.550. Valid cause exists for the revocation, suspension, or refusal to issue a license when any of the following occur:

(a) The licensee or applicant deliberately falsifies an application for an examination or license;

(b) Has committed a violation of ORS 162.305;

(c) Has failed to comply with any provision of ORS 480.410 to 480.460;

(d) Has failed to comply with any provision of OAR 837-030-0100 through 837-030-0280;

(e) Has failed to maintain the status required under ORS 480.434; or

(f) Has violated any other provision of the liquefied petroleum gas statutes, administrative rules, or applicable fire and life safety standards.

(2) The period of denial, revocation or suspension may not exceed three (3) years if the circumstances of the licensee's or applicant's failure to comply with applicable laws and rules pertaining to liquefied petroleum gas presented a significant hazard or other public danger.

(3) Licenses are the property of the Office of State Fire Marshal and must be surrendered upon request of the State Fire Marshal or a State Fire Marshal assistant.

Stat. Auth.: ORS 476 & 480
Stats. Implemented: ORS 480.435
Hist.: FM 52, f. 4-29-71, ef. 5-25-71; FM 6-1985, f. & ef. 9-20-85; FM 6-1987, f. & ef. 10-20-87; FM 5-1988(Temp), f. & cert. 3-31-88; FM 10-1988, f. & cert. ef. 9-19-1988; FM 3-1995, f. & cert. ef. 11-14-95, Renumbered from 837-030-0030; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

837-030-0220

License Renewal

(1) All licenses must be renewed on or before a date specified by the State Fire Marshal. This date will be 30 days after service of written notice by the State Fire Marshal and will be specified on the renewal application.

(2) License renewals must be made on a form provided by the Office of State Fire Marshal and must be accompanied by the appropriate fees.

(3) Company license renewals are valid for a period of one year. Fitter or truck equipment operator licenses renewals are valid for a period of two years.

(4) Licenses not renewed by the specified date are subject to a late fee. The fees for the liquefied petroleum gas program are located in Oregon Revised Statute as follows: ORS 480.436 License fees; term of licenses; delinquency penalty.

(5) Licenses not renewed by their expiration date are invalid and the licensee must cease working until such time as licensing is brought current.

Stat. Auth.: ORS 476 & 480
Stats. Implemented: ORS 480.436
Hist.: FM 3-1995, f. & cert. ef. 11-14-95; OSFM 3-1999(Temp), f. & cert. ef. 7-23-99 thru 1-18-00; OSFM 1-2000(Temp), f. & cert. ef. 1-18-00 thru 4-15-00; OSFM 4-2000, f. & cert. ef. 4-12-00; OSFM 5-2003(Temp), f. & cert. ef. 11-4-03 thru 12-31-03; OSFM 2-2004, f. & cert. ef. 1-14-04; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

837-030-0230

Motor Fuel Installations (Conversions)/Plan Approval

(1) Any company converting or manufacturing any vehicle or machinery to use liquefied petroleum gas for motor fuel must obtain the company and fitter licenses as required in OAR 837-030-0140.

(2) Any manufacture of vehicle or machinery, or any conversion of existing vehicle or machinery to use liquefied petroleum gas as motor fuel, must be in compliance with all applicable liquefied petroleum gas laws, rules and regulations.

(3) All equipment must be installed in accordance with these regulations and the applicable safety standards as adopted, unless written approval is otherwise granted by the State Fire Marshal.

(4) The State Fire Marshal or a State Fire Marshal assistant may make on-site inspections of manufacturing plants where liquefied petroleum gas motor fuel systems are being installed to ensure compliance with applicable safety standards.

(5) Any company manufacturing or converting vehicles or machinery to use liquefied petroleum gas as motor fuel may make application for plan approval of a model or prototype to the State Fire Marshal. The application and plans must include two complete sets of plans which show in detail:

(a) The location of all liquefied petroleum gas equipment including containers, fuel lines, carburetion system, vaporizers, and all pertinent equipment; and

(b) The name of the equipment manufacturer and model numbers when available;

(c) Sufficient information to permit the State Fire Marshal to determine compliance or noncompliance with fire and life safety regulations relating to the use of liquefied petroleum gas as motor fuel.

(6) Upon approval, one copy of the plans will be returned to the applicant with the written approval and an assigned permit number. One copy of the plans will be retained by the State Fire Marshal;

(7) If the plans are disapproved, the applicant will be notified in writing the reason the plans were disapproved and provided information on how to meet the applicable fire and life safety regulations so the plans may be approved.

(8) All vehicles or machinery manufactured or converted to use liquefied petroleum gas as motor fuel and installing liquefied petroleum gas motor fuel tanks must be reported to the State Fire Marshal.

ADMINISTRATIVE RULES

(9) The State Fire Marshal must be notified by the last day of each month by the installation company of all new liquefied petroleum motor fuel installations made during the preceding month.

(10) United States Post Office postmark date will be used to determine the reporting date.

(11) Notification must be made on a form (Notice of Installation of Liquefied Petroleum Gas Tank for Motor Fuel) and must include the following information:

- (a) Customer name for whom the conversion was made;
- (b) Address where the vehicle or machinery may be inspected;
- (c) Date conversion was completed;
- (d) Water capacity of tank;
- (e) Signature of fitter who installed tank and their fitter license number;
- (f) Tank serial number;
- (g) Name of company installing tank and their company license number;

(12) Any other information that may be helpful in locating the tank. (12) The company representative must sign the notice verifying the information is correct; and

(13) The appropriate tank installation fee for the liquefied petroleum gas program is located in Oregon Revised Statute as follows: ORS 480.450 Notice of new installations; inspection fees; inspections after original inspection; notice of changes; correction of improper installations required.

EXCEPTION: This section does not apply to liquefied petroleum gas installations made in manufactured dwellings or recreational vehicles performed during the construction of the manufactured dwelling or recreational vehicle, or the alteration or repair of the liquefied petroleum gas installation in a manufactured dwelling or recreational vehicle when they are made pursuant to the manufacturer's warranty. All repairs or alterations performed outside of the initial construction or the manufacturer's warranty must be completed by a licensed company and a licensed fitter.

(14) Any vehicle or machinery manufactured or converted to use liquefied petroleum gas as motor fuel that is found to be in violation of the applicable fire and life safety standards, may be ordered by the State Fire Marshal to be taken out of service. Once out of service, it may not be placed back in service, sold or offered for sale until all necessary corrections have been made, the State Fire Marshal notified and the vehicle or machinery put back in service by the State Fire Marshal.

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

Stat. Auth.: ORS 476 & 480

Stats. Implemented: ORS 480.450

Hist.: FM 52, f. 4-29-71, ef. 5-25-71; FM 81, f. & ef. 3-3-76; FM 6-1985, f. & ef. 9-20-85; FM 6-1987, f. & ef. 10-20-87; FM 3-1995, f. & cert. ef. 11-14-95, Renumbered from 837-030-0035; OSFM 3-1999(Temp), f. & cert. ef. 7-23-99 thru 1-18-00; OSFM 1-2000(Temp), f. & cert. ef. 1-18-00 thru 4-15-00; OSFM 4-2000, f. & cert. ef. 4-12-00; OSFM 5-2003(Temp), f. & cert. ef. 11-4-03 thru 12-31-03; OSFM 2-2004, f. & cert. ef. 1-14-04; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

837-030-0235

Plan Review of Certain Storage Tanks

(1) Liquid Petroleum Gas installations wherein a single container is more than 2,000 gallons in water capacity, or the aggregate capacity of the installation is greater than 4,000 gallons, require a plan review from the Office of State Fire Marshal.

(2) Applications for plan reviews must be submitted to the Office of State Fire Marshal within 10 working days from the proposed installation date.

(3) Applications for plan reviews must be submitted on an Office of State Fire Marshal form and be accompanied by a \$100 fee.

Stat. Auth.: ORS 476.033 & 480.410 - 480.460

Stats. Implemented: ORS 476.033 & 480.410 - 480.460

Hist.: OSFM 16-2005, f. & cert. ef. 11-9-05; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

837-030-0240

Reporting Tank Installations

(1) The State Fire Marshal must be notified by the last day of each month by the installing company of all new liquefied petroleum gas tank installations made during the preceding month.

(2) United States Post Office postmark date will be used to determine the reporting date.

(3) Notification must be made on a form (Notice of Installation of Liquefied Petroleum Gas Tank) provided by the Office of State Fire Marshal and include the following information:

- (a) Customer name and contact phone number for whom the tank was installed;
- (b) Address where tank was installed;
- (c) County of installation;
- (d) Date tank was installed;
- (e) Water capacity of tank;
- (f) Tank serial number;
- (g) Signature of fitter who installed tank and their fitter license number;

(h) Name of company installing tank and their company license number;

(i) Any other information that may be helpful in locating the tank including a map providing directions to the tank location.

(4) Tank installation notices must be accompanied by a summary sheet that details the number and size of tanks installed during the preceding month.

(5) The company representative must sign the summary sheet verifying the information is correct.

(6) The appropriate tank installation fees must accompany the tank installation notices and summary sheet. The fee for the liquefied petroleum gas program is located in Oregon Revised Statute as follows: ORS 480.450 Notice of new installations; inspection fees; inspections after original inspection; notice of changes; correction of improper installations required.

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

Stat. Auth.: ORS 476 & 480

Stats. Implemented: ORS 480.450

Hist.: FM 3-1995, f. & cert. ef. 11-14-95; OSFM 3-1999(Temp), f. & cert. ef. 7-23-99 thru 1-18-00; OSFM 1-2000(Temp), f. & cert. ef. 1-18-00 thru 4-15-00; OSFM 4-2000, f. & cert. ef. 4-12-00; OSFM 5-2003(Temp), f. & cert. ef. 11-4-03 thru 12-31-03; OSFM 2-2004, f. & cert. ef. 1-14-04; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

837-030-0250

Inspection of Tank Installations

(1) State Fire Marshal Deputies or State Fire Marshal assistants will inspect a reasonable number of reported tank installations.

(2) Inspection records will be maintained at the Office of State Fire Marshal.

(3) Tank installation companies will be notified in writing by an inspection notice when a tank installation is not in compliance with State Fire Marshal requirements.

(4) The State Fire Marshal will notify the company of:

(a) Necessary corrections to bring the installation into compliance;

(b) The number of days (not to exceed 60 days) the company has to bring the installation into compliance.

(5) The installing company must notify the State Fire Marshal that the corrections have been made to bring the installation into compliance, as follows:

(a) The date the corrections were made must be in writing; and

(b) Must be returned to the Office of State Fire Marshal.

(6) Corrections not made or not reported within the number of days allowed to bring the installation into compliance, are subject to fees for the liquefied petroleum gas program located in Oregon Revised Statute as follows: ORS 480.450 Notice of new installations; inspection fees; inspections after original inspection; notice of changes; correction of improper installations required.

Stat. Auth.: ORS 476 & 480

Stats. Implemented: ORS 480.450

Hist.: FM 3-1995, f. & cert. ef. 11-14-95; OSFM 3-1999(Temp), f. & cert. ef. 7-23-99 thru 1-18-00; OSFM 1-2000(Temp), f. & cert. ef. 1-18-00 thru 4-15-00; OSFM 4-2000, f. & cert. ef. 4-12-00; OSFM 5-2003(Temp), f. & cert. ef. 11-4-03 thru 12-31-03; OSFM 2-2004, f. & cert. ef. 1-14-04; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

837-030-0260

Bulk Storage Sites: Inspections/Notifications

(1) State Fire Marshal deputies or State Fire Marshal assistants may inspect bulk storage sites annually.

(2) Inspection records will be maintained at the Office of State Fire Marshal.

(3) The installing company will be notified in writing by an inspection notice when a bulk site is not in compliance with State Fire Marshal requirements.

(4) The State Fire Marshal will notify the company of:

(a) Necessary corrections to bring the installation into compliance;

(b) The number of days (may not exceed 60 days) the company has to bring the installation into compliance.

(5) The installing company must notify the State Fire Marshal that the corrections have been made to bring the installation into compliance, as follows:

(a) The date the corrections were made must be written on the copy of the inspection notice provided to the company;

(b) The inspection notice must be returned to the Office of State Fire Marshal.

(6) Any changes to the bulk site, including but not limited to the installation of one or more additional tanks, removal of one or more tanks, and closure of the site, must be reported to the State Fire Marshal in writing within two weeks of the change.

Stat. Auth.: ORS 476 & 480

Stats. Implemented: ORS 480.440 & 480.450

Hist.: FM 3-1995, f. & cert. ef. 11-14-95; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

ADMINISTRATIVE RULES

837-030-0270

Delivery Units: Inspections/Notifications

(1) State Fire Marshal deputies or State Fire Marshal assistants may inspect delivery units annually.

(2) Delivery units must be made readily available to the deputy or assistant for the annual inspection after notification by the Office of State Fire Marshal that the annual inspection is due.

(3) Inspection records will be maintained at the Office of State Fire Marshal.

(4) Companies will be notified in writing by an inspection notice when a delivery unit is not in compliance with State Fire Marshal requirements.

(5) The State Fire Marshal will notify the company of:

(a) Necessary corrections to bring the delivery unit into compliance;

(b) The number of days (may not exceed 60 days) the company has to bring the delivery unit into compliance.

(6) The company must notify the State Fire Marshal that the corrections have been made to bring the delivery unit into compliance, as follows:

(a) The date the corrections were made must be written on the copy of the inspection notice provided to the company.

(b) The inspection notice must be returned to the Office of State Fire Marshal.

(7) Any changes to the delivery units, including but not limited to the addition of one or more delivery units to the company, and transfer, sale, disposal, or taking out of service of one or more delivery units must be reported to the State Fire Marshal in writing within two weeks of the change.

Stat. Auth.: ORS 476 & 480

Stats. Implemented: ORS 480.440 & 480.450

Hist.: FM 3-1995, f. & cert. ef. 11-14-95; OSFM 3-1999(Temp), f. & cert. ef. 7-23-99 thru 1-18-00; OSFM 1-2000(Temp), f. & cert. ef. 1-18-00 thru 4-15-00; OSFM 4-2000, f. & cert. ef. 4-12-00; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

837-030-0280

Fees/Penalties

(1) Fees are payable to the Office of State Fire Marshal.

(2) Fees must be paid at, or mailed to, the Office of State Fire Marshal and must accompany the appropriate application.

(3) Payment may be made by personal check, business check, cashier's check or money order made payable to the Office of State Fire Marshal. If the fee is paid by either personal or business check, the Office of State Fire Marshal will not take any action on the application until the check has cleared the bank.

(4) Fees for the liquefied petroleum gas program are located in Oregon Revised Statute as follows:

(a) Examination Fees — ORS 480.434 Examination of applicants for licenses; issuance of license. Examination fees are non-refundable and non-transferable.

(b) Company License — ORS 480.436 License fees; term of licenses; delinquency penalty.

(c) Fitter License — ORS 480.436 License fees; term of licenses; delinquency penalty.

(d) Truck Equipment Operator License — ORS 480.436 License fees; term of licenses; delinquency penalty.

(e) Company, Fitter, and Truck Equipment Operator License — ORS 480.436 License fees; term of licenses; delinquency penalty.

(f) Plan Review Fee — ORS 480.450 Notice of new installations; inspection fees; inspections after original inspection; notice of changes; correction of improper installations required.

(g) Bulk Plant Inspection Fee — ORS 480.440 Inspection of certain storage tanks. (Excludes initial inspection during plant construction).

(h) Delivery Unit Inspection Fee — ORS 480.440 Inspection of certain storage tanks.

(5) Tank Installation Fees for all tanks: All tanks ORS 480.450 Notice of new installations; inspection fees; inspections after original inspection; notice of changes; correction of improper installations required.

(6) Tank Reinspection Fees — ORS 480.450 Notice of new installations; inspection fees; inspections after original inspection; notice of changes; correction of improper installations required. 10 year tank inspection fee — ORS 480.450 Notice of new installations; inspection fees; inspections after original inspection; notice of changes; correction of improper installations required.

(7) Penalty Fees for the Liquefied Petroleum Gas program are located in Oregon Revised Statutes as follows:

(a) ORS 480.436 License fees; term of licenses; delinquency penalty.

(b) ORS 480.450 Notice of new installations; inspection fees; inspections after original inspection; notice of changes; correction of improper installations required.

(c) ORS 480.990 Penalties.

Stat. Auth.: ORS 476 & 480

Stats. Implemented: ORS 480.436, 480.440, 480.450 & 480.460

Hist.: FM 3-1995, f. & cert. ef. 11-14-95; OSFM 3-1999(Temp), f. & cert. ef. 7-23-99 thru 1-18-00; OSFM 1-2000(Temp), f. & cert. ef. 1-18-00 thru 4-15-00; OSFM 4-2000, f. & cert. ef. 4-12-00; OSFM 5-2003(Temp), f. & cert. ef. 11-4-03 thru 12-31-03; OSFM 2-2004, f. & cert. ef. 1-14-04; OSFM 16-2005, f. & cert. ef. 11-9-05; OSFM 8-2008, f. 9-26-08, cert. ef. 10-1-08

Department of Public Safety Standards and Training Chapter 259

Rule Caption: Amends Training Requirements for Police Officers.

Adm. Order No.: DPSST 14-2008

Filed with Sec. of State: 10-15-2008

Certified to be Effective: 10-15-08

Notice Publication Date: 9-1-2008

Rules Amended: 259-008-0025

Subject: Amends Basic Police Course curriculum to require police officers to receive a minimum of 24 hours of training in the recognition of mental illness utilizing a crisis intervention training model prior to obtaining certification pursuant to HB 2765; and

Amends Basic Police Course curriculum to require all police officers and certified reserve officers to be trained to investigate and report cases of missing children, subject to the availability of funds pursuant to SB 351.

Rules Coordinator: Bonnie Salle-Narvaez—(503) 378-2431

259-008-0025

Minimum Standards for Training

(1) Basic Course:

(a) Except as provided in 259-008-0035, all law enforcement officers, telecommunicators, and emergency medical dispatchers shall satisfactorily complete the prescribed Basic Course, including the field training portion. The Basic Course and field training portion shall be completed within twelve months from the date of employment by corrections officers and within 18 months by police officers, parole and probation officers, telecommunicators, and emergency medical dispatchers.

(b) The field training program shall be conducted under the supervision of the employing department. When the field training manual is properly completed, the sign-off pages of the field training manual shall be forwarded to the Department. Upon the approval of the Department, the employee shall receive credit toward basic certification.

(c) Effective July 1, 2007, all police officers must satisfactorily complete the Department's physical fitness standard. The Department's physical standard is:

(A) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested upon entry at the Basic Police Course; or

(B) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested prior to graduation from the Basic Police Course.

(d) Law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as defined in ORS 181.610, subsections (5), (13) and (14), and OAR 259-008-0005, subsections (7), (19), (23), and (24), during the last five (5) years or more, shall satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon a finding that the applicant has current knowledge and skills to perform as an officer.

(e) Telecommunicators and emergency medical dispatchers who have previously completed the Basic Course, but have not been employed as a telecommunicator or EMD, as described in ORS 181.610(9) and (18) and 259-008-0005(14) and (32) for two and one-half (2-1/2) years or more, must satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon finding that a Telecommunicator has current knowledge and skills to perform as a Telecommunicator. There is no waiver available for an emergency medical dispatcher.

(f) Previously employed telecommunicators may challenge the Basic Telecommunications Course based on the following criteria:

(A) The department head of the applicant's employing agency shall submit the "challenge request" within the time limits set forth in the Oregon Revised Statutes and Oregon Administrative Rules.

(B) The applicant shall provide proof of successful completion of prior equivalent training.

(C) The applicant shall provide documentation of the course content with hour and subject breakdown.

(D) The applicant shall obtain a minimum passing score on all written examinations for the course.

(E) The applicant shall demonstrate performance at the minimum acceptable level for the course.

ADMINISTRATIVE RULES

(F) Failure of written examination or demonstrated performance shall require attendance of the course challenged.

(G) The applicant shall only be given one opportunity to challenge a course.

(g) Previously employed police officers, corrections officers and parole and probation officers who are required to attend the Basic Course may not challenge the Basic Course.

(h) All law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as described in ORS 181.610(5), (13) and (14), and OAR 259-008-0005(7), (19), (23) and (24) over two and one-half (2-1/2) but less than five (5) years shall complete a Career Officer Development Course if returning to the same discipline. This requirement may be waived after a staff determination that the applicant has demonstrated the knowledge and skills required for satisfactory completion of a Career Officer Development Course.

(i) Corrections and police officers who have not completed the Basic Course shall begin training at an academy operated by the Department within 90 days of their initial date of employment. A 30-day extension of this time period shall be granted by the Board or its designee upon receipt of a written statement of the reasons for the delay from the officer's employer. Any delays caused by the inability of the Department to provide basic training for any reason, shall not be counted as part of the periods set forth above (refer to ORS 181.665 and 181.652).

(j) Law enforcement officers who have previously completed a basic training course out of state while employed by a law enforcement unit, or public or private safety agency, may, upon proper documentation of such training and with approval of the Department, satisfy the requirements of this section by successfully completing a prescribed Career Officer Development Course or other appropriate course of instruction.

(k) The basic course for police officers must include:

(A) Training on the law, theory, policies and practices related to vehicle pursuit driving;

(B) Vehicle pursuit training exercises, subject to the availability of funding; and

(C) A minimum of 24 hours of training in the recognition of mental illnesses utilizing a crisis intervention training model.

(2) Career Officer Development Course:

(a) All law enforcement officers who have not been employed as such for between two and one half (2 1/2) and five (5) years, shall satisfactorily complete the Career Officer Development Course approved by the Department.

(b) A law enforcement officer assigned to a Career Officer Development Course shall also complete the Board's field training program under the supervision of the employing department and submit to the Department a properly completed Field Training Manual. The Department may waive the Field Training Manual requirement upon demonstration by the employing agency that it is not necessary. See 259-008-0025(1)(b).

(c) The Department may also require successful completion of additional specified courses or remedial training.

(3) Supervision Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a first-level supervisory position shall satisfactorily complete the prescribed Supervision Course within 12 months after initial promotion, appointment, or transfer to such position. This section shall apply whether the individual is promoted or transferred from within a department, or is appointed from an outside department, without having completed a prescribed Supervision Course, within the preceding five (5) years.

(4) Middle Management Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a middle management position must satisfactorily complete the prescribed Middle Management Course within 12 months after initial promotion, appointment, or transfer to such position. This section shall apply whether the individual is promoted or transferred to a middle management position within a department, or employed from outside a department and appointed to a middle manager position without having completed a prescribed middle management course within the preceding five (5) years.

(5) Specialized Courses:

(a) Specialized courses are optional and may be presented at the Academy or regionally. The curriculum is generally selected because of relevancy to current trends and needs in police, corrections, parole and probation, telecommunications, and emergency medical dispatch fields, at the local or statewide level.

(b) Specialized courses may be developed and presented by individual departments of the criminal justice system, local training districts, a college, the Department, or other interested persons. The staff may be available to provide assistance when resources are not available in the local region.

(c) Police officers, including certified reserve officers, shall be trained on how to investigate and report cases of missing children and adults.

(A) The above mandated training is subject to the availability of funds.

(B) Federal training programs shall be offered to police officers, including certified reserve officers, when they are made available at no cost to the state.

(6) Waiver. A person requesting a waiver of any course requirements is required to submit to the Department any supporting documents or pertinent expert testimony and evaluation requested. Any expense associated with providing such documentation, testimony or evaluation shall be borne by the person requesting the waiver or the requesting agency.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1982, f. & ef. 7-2-82; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0030, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 5-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 13-2001(Temp), f. & cert. ef. 10-26-01 thru 4-10-02; BPSST 2-2002, f. & cert. ef. 2-6-02; BPSST 8-2002, f. & cert. ef. 4-3-02; BPSST 15-2002, f. & cert. ef. 7-5-02; DPSST 14-2003, f. & cert. ef. 12-22-03; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 3-2007, f. & cert. ef. 1-12-06; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 9-2008, f. & cert. ef. 7-15-08; DPSST 14-2008, f. & cert. ef. 10-15-08

Rule Caption: Amends Maintenance training Requirements for Telecommunications/Emergency Medical Dispatchers.

Adm. Order No.: DPSST 15-2008

Filed with Sec. of State: 10-15-2008

Certified to be Effective: 10-15-08

Notice Publication Date: 9-1-2008

Rules Amended: 259-008-0064

Subject: Allows Telecommunications/EMD instructors to apply a portion of hours spent instructing a class one (1) time annually toward maintenance training requirements.

Rules Coordinator: Bonnie Salle-Narvaez—(503) 378-2431

259-008-0064

Maintenance of Certification for Telecommunicators and Emergency Medical Dispatchers

(1) Basic Certification:

(a) All certified telecommunicators must participate in 12 hours of training annually. The training must be reported by July 1st of each year to DPSST on a **Form F-15T**. The content of the training is determined by the public or private safety agency administrator;

(b) The employing agency must maintain documentation of required telecommunicator training on each telecommunicator;

(c) The employing agency must notify the Department of all telecommunicators employed annually, and provide documentation as to the training status of all employed telecommunicators.

(2) Emergency Medical Dispatch Certification: All certified Emergency Medical Dispatchers must complete four (4) hours of approved in-service training in Emergency Medical Dispatch annually. The in-service training must be reported by July 1st of each year to DPSST on a **Form F-15T**. The content of the training is determined by the public or private safety agency administrator.

(3) Those who are certified in both disciplines under OAR 259-008-0060(17) must report the required training to DPSST by July 1st of each year on a **Form F-15M**.

(4) Maintenance training hours reported to the Department on an F-15M or F-15T will be used solely to verify completion of maintenance training requirements and will not be added to a telecommunicator's or emergency medical dispatcher's DPSST training record.

(5)(a) Instructors may apply hours spent instructing a class one (1) time annually toward maintenance training, but instructed hours reported for a class may not exceed the lesser of:

(A) The actual class hours; or

(B) The actual number of hours the instructor spent instructing the class.

(b) The total number of instructed hours applied towards the annual maintenance training requirement may not exceed:

(A) Six (6) hours for a telecommunicator; or

(B) Two (2) hours for an emergency medical dispatcher;

(6) Failure to comply with sections (1) through (3) of this rule will result in the recall of their certification by the Department.

(7) Recertification following a recall may be obtained at the approval of DPSST by submitting the following to DPSST:

(a) A written request from the employing agency head requesting recertification, along with a justification of why the training was not completed; and

(b) Verification that the missed training was completed.

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(8) Notwithstanding paragraph (6) of this subsection, the failure of a telecommunicator or Emergency Medical Dispatcher to complete required maintenance training will not result in recall of certification if the telecommunicator or Emergency Medical Dispatcher is on authorized leave of absence from a public or private safety agency;

(9) The Department may grant an extension of time for completion of any required training or in-service training based upon good cause. A written request for an extension of time must be submitted to the Department by the agency head.

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

Stat. Auth.: ORS 181.640 & 181.644

Stats. Implemented: ORS 181.640 & 181.644

Hist.: 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 1-1999, f. & cert. ef. 3-9-99; BPSST 5-2001, f. & cert. ef. 8-22-01; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 15-2008, f. & cert. ef. 10-15-08

Rule Caption: Requires Mental Health Session for Police Officers after utilizing deadly force.

Adm. Order No.: DPSST 16-2008

Filed with Sec. of State: 10-15-2008

Certified to be Effective: 10-15-08

Notice Publication Date: 9-1-2008

Rules Amended: 259-008-0070

Subject: Adopts rule to require mental health session for police officers after utilizing deadly physical force.

Rules Coordinator: Bonnie Salle-Narvaez — (503) 378-2431

259-008-0070

Denial/Revocation

(1) It is the responsibility of the Board to set the standards, and of the Department to uphold them, to insure the highest levels of professionalism and discipline. These standards shall be upheld at all times unless the Board determines that neither the safety of the public or respect of the profession is compromised.

(2) Mandatory Grounds for Denying or Revoking Certification of a Public Safety Professional or Instructor:

(a) The Department must deny or revoke the certification of any public safety professional or instructor after written notice and hearing, based upon a finding that:

(A) The public safety professional has been discharged for cause from employment as a public safety professional. For purposes of this rule, "discharged for cause," means an employer-initiated termination of employment for any of the following reasons:

(i) Gross Negligence: means the public safety professional's act or failure to act creates a danger or risk to persons, property, or to the efficient operation of the department, recognizable as a gross deviation from the standard of care that a reasonable public safety professional would observe in a similar circumstance;

(ii) Insubordination: means a refusal by a public safety professional to comply with a rule or order where the rule or order was reasonably related to the orderly, efficient, or safe operation of the public or private safety agency and where the public safety professional's refusal to comply with the rule or order constitutes a substantial breach of that person's duties; or

(iii) Incompetence or Gross Misconduct: in determining what constitutes "incompetence or gross misconduct," sources the Department may take into account include but are not limited to practices generally followed in the profession, current teaching at public safety training facilities, and technical reports and literature relevant to the fields of law enforcement, telecommunications, or emergency medical dispatch.

(B) The public safety professional or instructor has been convicted in this state or any other jurisdiction of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one year may be imposed;

(C) The public safety professional or instructor has been convicted of violating any law of this state or any other jurisdiction involving the unlawful use, possession, delivery or manufacture of a controlled substance, narcotic or dangerous drug except the Department may deny certification for a conviction of possession of less than one ounce of marijuana, which occurred prior to certification; or

(D) The public safety professional or instructor has been convicted in this state of any of the following offenses, or of their statutory counterpart(s) in any other jurisdiction, designated under the law where the conviction occurred as being punishable as a crime:

162.075 (False swearing),

162.085 (Unsworn falsification),

162.145 (Escape in the third degree),

162.175 (Unauthorized departure),

162.195 (Failure to appear in the second degree),

162.235 (Obstructing governmental or judicial administration),

162.247 (Interfering with a peace officer),

162.257 (Interfering with a firefighter or emergency medical technician),

162.295 (Tampering with physical evidence),

162.305 (Tampering with public records),

162.315 (Resisting arrest),

162.335 (Compounding),

162.365 (Criminal impersonation),

162.369 (Possession of false law enforcement identification),

162.375 (Initiating a false report),

162.385 (Giving false information to a peace officer for a citation or arrest warrant),

162.415 (Official misconduct in the first degree),

163.200 (Criminal mistreatment in the second degree),

163.687 (Encouraging child sexual abuse in the third degree),

163.732 (Stalking),

164.045 (Theft in the second degree),

164.085 (Theft by deception),

164.095 (Theft by receiving),

164.125 (Theft of services),

164.235 (Possession of a burglary tool or theft device),

164.877 (Unlawful tree spiking; unlawful possession of substance that can damage certain wood processing equipment)

165.007 (Forgery in the second degree),

165.017 (Criminal possession of a forged instrument in the second degree),

165.037 (Criminal simulation),

165.042 (Fraudulently obtaining a signature),

165.047 (Unlawfully using slugs),

165.055 (Fraudulent use of a credit card),

165.065 (Negotiating a bad check),

165.080 (Falsifying business records),

165.095 (Misapplication of entrusted property),

165.100 (Issuing a false financial statement),

165.102 (Obtain execution of documents by deception),

165.825 (Sale of drugged horse),

166.065(1)(b) (Harassment),

166.155 (Intimidation in the second degree),

166.270 (Possession of weapons by certain felons),

166.350 (Unlawful possession of armor-piercing ammunition),

166.416 (Providing false information in connection with a transfer of a firearm),

166.418 (Improperly transferring a firearm),

166.470 (Limitations and conditions for sales of firearms),

167.007 (Prostitution),

167.065 (Furnishing obscene materials to minors),

167.070 (Sending obscene materials to minors),

167.075 (Exhibiting an obscene performance to a minor),

167.080 (Displaying obscene materials to minors),

167.132 (Possession of gambling records in the second degree),

167.147 (Possession of a gambling device),

167.222 (Frequenting a place where controlled substances are used),

167.262 (Adult using minor in commission of controlled substance offense),

167.320 (Animal abuse in the first degree),

167.330 (Animal neglect in the first degree),

167.332 (Prohibition against possession of domestic animal),

167.333 (Sexual assault of animal),

167.337 (Interfering with law enforcement animal),

167.355 (Involvement in animal fighting),

167.370 (Participation in dogfighting),

167.431 (Participation in cockfighting),

167.820 (Concealing the birth of an infant),

475.525 (Sale of drug paraphernalia),

475.950 (Failure to report precursor substances transaction),

475.955 (Failure to report missing precursor substances),

475.960 (Illegally selling drug equipment),

475.965 (Providing false information on precursor substances report or record),

475.969 (Unlawful possession of phosphorus),

475.971 (Unlawful possession of anhydrous ammonia),

475.973 (Unlawful possession of ephedrine, pseudoephedrine or phenylpropanolamine; unlawful distribution),

475.975 (Unlawful possession of iodine in its elemental form),

475.976 (Unlawful possession of iodine matrix),

475.981 (Falsifying drug test results),

475.982 (Providing drug test falsification equipment),

475.986 (Application of controlled substance to the body of another person),

475.991 (Unlawful delivery of imitation controlled substance),

475.992 (Manufacture or deliver a controlled substance),

475.993 (Unlawful acts, registrant delivering or dispensing controlled substance),

475.994 (Prohibited acts involving records and fraud),

475.995 (Distribution of controlled substance to minors),

475.999 (Manufacture or delivery of controlled substance within 1,000 feet of school),

807.520 (False swearing to receive license),

807.620 (Giving false information to police officer),

Any offense involving any acts of domestic violence as defined in ORS 135.230.

(b) The Department must take action on a mandatory disqualifying conviction, regardless of when it occurred, unless the Department, or the Board, has previously reviewed the conviction and approved the public safety professional or instructor for certification under a prior set of standards.

(3) Discretionary Grounds for Denying or Revoking Certification of a Public Safety Professional or Instructor: The Department may deny or revoke the certification of any public safety professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:

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(a) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(b) The public safety professional or instructor has been convicted of an offense, punishable as a crime, other than a mandatory disqualifying crime listed in subsection (2), in this state or any other jurisdiction. In determining whether to take action on a conviction, the Department must use the following guidelines:

(A) In making a decision on a discretionary denial or revocation, the Department will consider the implementation dates relating to new mandatory conviction notification requirements adopted in 2003 and statutory changes dealing with lifetime disqualifier convictions for public safety officers adopted in 2001.

(B) The Department will not take action on a discretionary conviction that occurred prior to January 1, 2001. However, the Department may consider such conviction as evidence that a public safety professional or instructor does not meet the established moral fitness guidelines.

(C) The Department may take action on any discretionary disqualifying conviction that occurred after January 1, 2001.

(D) The Board may reconsider any mandatory conviction which subsequently becomes a discretionary conviction, upon the request of the public safety professional or instructor.

(E) The length of ineligibility for training or certification based on a conviction begins on the date of conviction.

(F) Notwithstanding subsection (2)(b) of this section, all denial and revocation standards must apply to public safety professionals and instructors.

(G) A public safety professional or agency will not be held accountable for failing to report a discretionary conviction that occurred prior to January 1, 2003.

(c) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640.

(d) A public safety professional failed to attend at least one session with a mental health professional within six months after the public safety professional was involved in using deadly physical force, as required by ORS 181.789.

(4) Scope of Revocation. Whenever the Department denies or revokes the certification of any public safety professional, the denial or revocation will encompass all certificates the Department has issued to that person.

(5) Denial and Revocation Procedure.

(a) Employer Request: When a public safety professional's employer requests that a public safety professional's certification be denied or revoked, the employer must submit the reason for the requested denial or revocation and all factual information supporting the request, in writing, to the Department.

(b) Department Initiated Request: Upon receipt of factual information from any source, and pursuant to ORS 181.662, the Department may request that the public safety professional's certification be denied or revoked.

(c) Department Staff Review: When the Department receives information, from any source, that a public safety professional may not meet the established standards for Oregon public safety professionals, the Department will review the request and the supporting factual information to determine if the request for denial or revocation meets statutory and administrative rule requirements.

(A) If the reason for the request does not meet the statutory and administrative rule requirements for denial or revocation the Department will notify the requestor.

(B) If the reason for the request does meet statutory and administrative rule requirements but is not supported by adequate factual information, the Department will request further information from the employer or conduct its own investigation of the matter.

(C) The Department will seek input from the affected public safety professional or instructor, allowing him or her to provide, in writing, information for the Policy Committee and Board's review.

(D) If the Department determines that a public safety professional or instructor may have engaged in discretionary disqualifying conduct listed in subsection (3), the case may be presented to the Board, through a Policy Committee.

(d) Policy Committee and Board Review: The Policy Committees and Board may consider mitigating and aggravating circumstances in making a decision to deny or revoke certification based on discretionary disqualifying conduct, including the following:

(A) Was a conviction a felony, misdemeanor, or violation?

(B) How long ago did a conviction occur?

(C) Was the public safety professional a minor at the time and tried as an adult?

(D) When did the conduct occur in relation to the public safety professional's employment in law enforcement (i.e., before, during, after)?

(E) Did the public safety professional serve time in prison/jail? If so, how long?

(F) If restitution was involved, has the public safety professional met all obligations?

(G) Was the public safety professional on parole or probation? If so, when did the parole or probation end? Is the public safety professional still on parole or probation?

(H) Do the actions violate the established moral fitness standards for Oregon public safety officers identified in OAR 259-008-0010(5), i.e., moral turpitude, dishonesty, fraud, deceit, misrepresentation, conduct prejudicial to the administration of justice, conduct that reflects adversely on the profession, or conduct that would cause a reasonable person to have substantial doubts about the public safety professional's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation?

(I) How many other convictions does this public safety professional have? Over what period of time?

(J) Has the public safety professional been convicted of the same conduct more than once? Is this a repeated violation or a single occurrence?

(K) Does the conduct involve domestic violence?

(L) Did the public safety professional self report the conduct?

(e) Initiation of Proceedings: Upon determination that the reason for denial or revocation is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared.

(f) Contested Case Notice: The "Contested Case Notice" will be prepared in accordance with the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department will have a copy of the notice served on the public safety professional.

(g) Response Time:

(A) A party who has been served with a "Contested Case Notice of Intent to Deny Certification" has 60 days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(B) A party who has been served with the "Contested Case Notice of Intent to Revoke Certification" has 20 days from the date of mailing or personal service of the notice in which to file with the Department a written request for hearing.

(h) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying or revoking certification pursuant to OAR 137-003-0075(5).

(i) Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(j) Proposed Order: The assigned Administrative Law Judge will prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.

(k) Exceptions and Arguments: A party must file specific written exceptions and arguments with the Department no later than 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order.

(A) The Department may extend the time within which the exceptions and arguments must be filed upon a showing of good cause.

(B) When the exceptions and arguments are filed, the party making the exceptions and arguments must serve a copy on all parties of record in the case and provide the Department with proof of service. A failure to serve copies and provide proof of service will invalidate the filing of exceptions and arguments as being untimely, and the Department may disregard the filing in making a final determination of the case.

(l) Final Order: A final order will be issued pursuant to OAR 137-003-0070 if a public safety professional fails to file exceptions and arguments in a timely manner.

(m) Stipulated Order Revoking Certification: Any public safety professional who wishes to voluntarily terminate an administrative proceeding to revoke a certification, or voluntarily relinquish a certification, may enter a stipulated order with the Department, at any time, revoking his or her certification under the terms and conditions outlined in the stipulated order.

(6) Appeal and Reapplication.

(a) A public safety professional or instructor, aggrieved by the findings and order of the Department may, as provided in ORS 183.480, file an appeal with the Court of Appeals from the final order of the department.

(b) Any public safety professional or instructor who has had a certification revoked pursuant to ORS 181.661 and 181.662 or subsection (a) of this section, may reapply for certification but not sooner than four years after the date on which the Order of the Department revoking certification became final.

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

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

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1980(Temp), f. & ef. 6-26-80; PS 2-1980, f. & ef. 12-8-80; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0055, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-

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1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 6-2000, f. & cert. ef. 9-29-00; BPSST 14-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 5-2002(Temp) f. 4-3-02, cert. ef. 4-6-02 thru 8-1-02; BPSST 16-2002, f. & cert. ef. 7-5-02; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 7-2003, f. & cert. ef. 4-11-03; DPSST 7-2004, f. & cert. ef. 4-23-04; DPSST 10-2006, f. & cert. ef. 7-6-06; DPSST 16-2008, f. & cert. ef. 10-15-08

Rule Caption: Adopts Criminal Record Checks Rules.

Adm. Order No.: DPSST 17-2008

Filed with Sec. of State: 10-15-2008

Certified to be Effective: 10-15-08

Notice Publication Date: 9-1-2008

Rules Adopted: 259-013-0000, 259-013-0005, 259-013-0220, 259-013-0230, 259-013-0235, 259-013-0240, 259-013-0250, 259-013-0260, 259-013-0270, 259-013-0280, 259-013-0290, 259-013-0300

Subject: Adopts administrative rules outlining the procedures for a criminal records check for individuals who are required to have a criminal record check prior to licensing or certification.

Rules Coordinator: Bonnie Salle-Narvaez—(503) 378-2431

259-013-0000

Statement of Purpose and Statutory Authority

(1) Purpose. The purpose of these rules is to establish the reasonable screening procedures for:

(a) All public safety professionals;

(b) Instructors;

(c) Any individual who occupies a position requiring a license or certification or is under investigation by the Department; or

(d) Reissuance of a license or certificate that is issued by the Department.

(2) Authority. These rules are authorized under ORS 181.534 and 181.612.

(3) When Rules Apply. These rules are to be applied when evaluating the criminal history of a subject individual identified in (1) of this rule. The fact that a subject individual is approved does not guarantee licensure or certification.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0005

Definitions

As used in OAR chapter 259, division 013, unless the context of the rule requires otherwise, the following definitions apply:

(1) "Approved" means that a criminal records check has been completed on an individual and the Department has not identified any criminal record that would make the individual ineligible for licensure or certification.

(2) "Authorized Designee" means a person who is authorized by the Department to receive, review and process criminal history information.

(3) "Conviction" means that a person was convicted in a court of law. Entering a plea of "guilty" or "no contest" is also considered a conviction for the purpose of these rules unless a subsequent court decision has dismissed the charges. An expunged juvenile or adult record may be considered a conviction under these rules for purposes of eligibility for licensure or certification.

(4) "Criminal History Information" means criminal justice records, fingerprints, court records, sexual offender registration records, warrants, DMV information, information provided on a Department form, and any other information obtained by or provided to the Department. "Criminal history information" may include violations or infractions for purposes of eligibility for licensure or certification.

(5) "Criminal Records Check" means the Oregon Criminal Records Check and, when required, a National Criminal Records Check or a State-Specific Criminal Records Check, and the processes and procedures required by these rules.

(6) "Denied" means a criminal records check has been completed on an individual and the individual is ineligible to obtain licensure or certification.

(7) "Department" means the Oregon Department of Public Safety Standards and Training.

(8) "National Criminal Records Check" means obtaining and reviewing criminal records nationwide or from states or jurisdictions other than Oregon. This information may be obtained from the Federal Bureau of Investigation through the use of fingerprint cards and from other criminal information resources.

(9) "Oregon Criminal Records Check" means obtaining and reviewing information from the Oregon State Police's Law Enforcement Data

System (LEDS). The Oregon Criminal Records Check may also include, but is not limited to: Oregon Justice Information Network (OJIN), Oregon Department of Corrections records, Motor Vehicles Division, local or regional criminal records information systems, or other official law enforcement agency or court records in Oregon.

(10) "Potentially Disqualifying Crime" means a crime listed or described in OAR 259-013-0260.

(11) "Records Information" includes criminal justice records, fingerprints, court records, sexual offender registration records, warrants, arrests, DMV information, information provided on the Department's criminal records check forms, and any other information obtained by or provided to the Department for the purpose of conducting a fitness determination.

(12) "State-Specific Criminal Records Check" means obtaining and reviewing information from law enforcement agencies, courts or other criminal records information resources located in a state or jurisdiction outside Oregon.

(13) "Subject individual" means a person for whom a criminal records check is required pursuant to these rules.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0220

Individuals Subject to Criminal Records Checks

The Department may require the fingerprints of:

(1) A fire service professional;

(2) A public safety professional or instructor;

(3) A private security professional;

(4) A Private Investigator;

(5) A Certified Retired Police Officer applicant;

(6) A Polygraph Intern or General License applicant;

(7) A candidate for election to the office of Sheriff.

Stat. Auth.: ORS 181.534, 181.612 & 206.015

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0230

Criminal Records Check Required

(1) Who Conducts Check.

(a) The Department may request that the Department of State Police conduct a criminal records check on a subject individual. If a nationwide criminal records check of a subject individual is necessary, the Department may request that the Department of State Police conduct the check, including fingerprint identification, through the Federal Bureau of Investigation.

(b) The Department may conduct criminal records checks on subject individuals through the Law Enforcement Data System maintained by the Department of State Police in accordance with rules adopted, and procedures established, by the Department of State Police.

(2) When Check is Required (New Checks and Re-checks). A subject individual is required to have a check in the following circumstances:

(a) When a public safety professional applies for, or is employed by, a law enforcement agency, the public safety professional or applicant must submit to a criminal records check as required by OAR 259-008-0010.

(b) When a person applies for a license to conduct polygraphs, the polygrapher, or applicant, must submit to a criminal records check as required by the provisions of OAR 259-0020-0010 or 259-0020-0015.

(c) When a person applies for certification as a certified retired officer, the applicant must submit to a criminal records check as required by the provisions of OAR 259-008-0068.

(d) When a person is elected or appointed to the Office of Sheriff, the applicant must submit to a criminal records check as required by the provisions of OAR 259-008-0075.

(e) When a person applies for a private security certificate or license, the applicant must submit to a criminal records check as required by the provisions of OAR 259-060-0120.

(f) When a person applies for a private investigator license, the applicant must submit to a criminal records check as required by the provisions of OAR 259-061-0070.

(g) When a person is an instructor for the Department who is not certified as a public safety professional.

(h) When a check is required by federal or state laws or regulations, other rules adopted by the Department, or by contract or written agreement with the Department.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0235

Refusal to Consent to a Criminal records Check

If any subject individual refuses to consent to a criminal records check, or refuses to be fingerprinted when required, the Department may

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revoke or deny any application, license or certificate issued by the Department.

Stat. Auth.: ORS 181.534 & 181.612
Stats. Implemented: ORS 181.612
Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0240

Oregon Criminal Records Check Process

(1) Processing.

(a) The Department will obtain criminal records information from the Oregon State Police Law Enforcement Data System and from other sources of criminal, judicial and motor vehicle information.

(b) The Department will authorize one or more designees to receive and evaluate Oregon criminal records information from the Oregon State Police as allowed by applicable statutes.

(c) A subject individual may be required to obtain and provide additional criminal, judicial or other background information to the Department or its authorized designee.

(d) Criminal records information obtained from the Law Enforcement Data System must be handled in accordance with applicable Oregon State Police requirements in ORS Chapter 181 and OAR chapter 257, division 15.

(2) Additional Information Required. The Department may require additional information from a subject individual in order to conduct an Oregon Criminal Record Check. The information may include, but is not limited to, proof of identity, residential history, names used while living at each residence, or additional criminal, judicial, or other background information.

Stat. Auth.: ORS 181.534 & 181.612
Stats. Implemented: ORS 181.612
Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0250

National Criminal Records Check Process

(1) National Criminal Records Check. In addition to an Oregon criminal records check (OAR 259-013-0250), the Department may require a national criminal records check consistent with the requirements for licensure or certification.

(2) Processing. The individual must complete and submit fingerprint card(s) when requested by the Department.

(3) Additional Information Required. In order to conduct a national check, the Department may require additional information such as, but not limited to, proof of identity, residential history, names used while living at each residence, or additional criminal, judicial, or other background information.

Stat. Auth.: ORS 181.534 & 181.612
Stats. Implemented: ORS 181.612
Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0260

Potentially Disqualifying Crimes

A conviction of any of the following crimes is potentially disqualifying. The lists include offenses that are crimes and may include offenses that are classified as violations or infractions for purposes of eligibility for licensure or certification. (See ORS 161.505 through 161.565).

(1) Any crime or offense listed in OAR 259-008-0070;

(2) Any crime listed in OAR 259-008-0070;

(3) Any crime listed in OAR 259-060-0020;

(4) Any crime listed in OAR 259-061-0040.

(5) Any federal crime.

(6) Any unclassified felony defined in Oregon Revised Statutes not listed elsewhere in this rule.

(7) Any other felony in Oregon's or any other jurisdiction's statutes not listed elsewhere in this rule.

(8) Any crime or offense in any other jurisdiction that is the substantial equivalent of any of the Oregon crimes identified in this section or as determined by an authorized designee of the Department.

(9) Any crime adopted by the Legislature that is the substantial equivalent of any of the crimes listed in this section.

Stat. Auth.: ORS 181.534 & 181.612
Stats. Implemented: ORS 181.612
Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0270

Record Keeping, Confidentiality

(1) LEDS Reports.

(a) Confidentiality. All LEDS reports are confidential and must be maintained by the authorized designee in accordance with applicable Oregon State Police requirements in ORS Chapter 181 and the rules adopted pursuant thereto. (NOTE: See OAR chapter 257, division 15).

(A) Authorized Designee Access. LEDS reports are confidential and may only be shared with another authorized designee if there is a need to know consistent with these rules.

(B) Subject Individual Access.

(i) The subject individual must be allowed to inspect the LEDS report if the subject individual requests to see it. The LEDS report, and photocopies of the LEDS report, must not be given to the subject individual, with the following exception:

(ii) If a fingerprint-based criminal records check was conducted on the subject individual, then the individual shall not only be permitted to inspect the individual's own state and national criminal offender records in the custody of the Department, but if requested by the individual, be provided with a copy of those same records.

(b) Retention. LEDS reports must be retained and destroyed in accordance with records retention schedules published by Oregon State Archives.

(2) National (FBI) Information.

(a) Confidentiality and Dissemination.

(A) National criminal information provided by the FBI is confidential and may not be disseminated by the Department, with the following exception:

(B) If a fingerprint-based criminal records check was conducted on the subject individual, then the subject individual shall not only be permitted to inspect the individual's own state and national criminal offender records in the custody of the Department, but if requested by the subject individual, be provided with a copy of those same records.

(b) Retention. FBI reports must be retained and destroyed in accordance with records retention schedules published by Oregon State Archives and in accordance with federal law.

(3) Fingerprint Cards:

(a) The Federal Bureau of Investigation (FBI) must return or destroy the fingerprint cards used to conduct the criminal records check and may not keep any record of the fingerprints. If the FBI policy authorizing return or destruction of the fingerprint cards is changed, the Department of State Police shall cease to send the cards to the FBI but shall continue to process the information through other available resources.

(b) If the FBI returns the fingerprint cards to the Department of State Police, the department must destroy the fingerprint cards and shall retain no facsimiles or other material from which a fingerprint can be reproduced.

(c) The Department of State Police may retain or destroy fingerprint cards after a criminal records check is completed and the results of the criminal records check is provided to the Department in accordance with rules adopted and procedures established by the Department of State Police.

(d) If only a state criminal records check is conducted, the Department of State Police may retain or destroy the fingerprint cards after the criminal records check is completed and the results of the criminal records check are provided to the Department in accordance with rules adopted and procedures established by the Department of State Police.

Stat. Auth.: ORS 181.534 & 181.612
Stats. Implemented: ORS 181.612
Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0280

Immunity from Liability

The Department and its authorized designees have immunity from any civil liability that might otherwise be incurred or imposed for determining, in accordance with ORS 181.612 that a subject may not obtain or maintain a license or certificate issued by the department, or be employed. The Department or its employee acting within the course and scope of employment who in good faith complies with 181.534 is not liable for employment-related decisions based on the fitness determination. No Department, or an employee of the state, the Department, a business or an organization acting within the course and scope of employment, is liable for defamation, invasion of privacy, negligence or any other civil claim in connection with the lawful dissemination of information lawfully obtained under 181.534.

Stat. Auth.: ORS 181.534 & 181.612
Stats. Implemented: ORS 181.612
Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0290

Appeal Process

(1) If an individual has been convicted of a potentially disqualifying crime, the Department will proceed in accordance with the relevant process for denial or revocation identified in either OAR 259-008-0070, 259-009-0070, 259-020-0031, 259-060-0300 or 259-061-0040.

(2) An individual may appeal a determination of the Department in accordance with the applicable rules identified in subsection (1) of this section.

Stat. Auth.: ORS 181.534 & 181.612
Stats. Implemented: ORS 181.612
Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

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259-013-0300

Fees

Fees may not exceed the actual cost of acquiring and furnishing criminal offender information.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

Rule Caption: Eliminates rule requiring polygraph examiners to register with county clerk.

Adm. Order No.: DPSST 18-2008

Filed with Sec. of State: 10-15-2008

Certified to be Effective: 10-15-08

Notice Publication Date: 9-1-2008

Rules Amended: 259-020-0040

Subject: Amends rule to remove requirement for each polygraph examiner to register with the county clerk in each county in which business address is maintained.

Rules Coordinator: Bonnie Salle-Narvaez—(503) 378-2431

259-020-0040

License Display and Registry

(1) A polygraph examiner shall display prominently the license at the place of business or employment, and a trainee shall display prominently the license at the place of internship.

(2) A polygraph examiner and trainees shall notify the Director in writing of any change in the principal place of business within 30 days after the date of such change. Upon discovery by the Director of failure by a licensee to comply with this section, the Director shall suspend immediately such license.

Stat. Auth.: ORS 181 & 703

Stats. Implemented: ORS 181 & 703

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; 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 9-2001, f. & cert. ef. 9-19-01; DPSST 18-2008, f. & cert. ef. 10-15-08

Rule Caption: Amend Private Security Rule Relating to Criminal History Convictions.

Adm. Order No.: DPSST 19-2008

Filed with Sec. of State: 10-15-2008

Certified to be Effective: 10-15-08

Notice Publication Date: 9-1-2008

Rules Amended: 259-060-0020

Subject: Re-establishes previous language regarding the length of time an applicant for certification or licensure is prohibited from having a criminal conviction prior to certification or licensure.

Rules Coordinator: Bonnie Salle-Narvaez—(503) 378-2431

259-060-0020

Minimum Standards for Certification or Licensure

(1) Age.

(a) An applicant for certification or licensure as a private security provider must be:

(A) At least 18 years of age to receive certification as a private security professional or unarmed private security instructor; and

(B) At least 21 years of age to receive certification as an armed security professional or armed private security instructor.

(b) All applicants for licensing as an executive or supervisory manager must be at least 18 years of age.

(2) Training. An applicant for certification or licensing must satisfactorily complete the applicable training requirements as approved by the Board on Public Safety Standards and Training and these rules.

(3) Moral Fitness (Moral Character). All private security providers must be of good moral fitness as determined by a criminal background check or department investigation.

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation.

(b) The following are indicators of a lack of good moral fitness:

(A) Illegal conduct involving moral turpitude;

(B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

(C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;

(D) Conduct that is prejudicial to the administration of justice;

(E) Conduct that adversely reflects on his or her fitness to perform as a private security provider. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the private security provider's performance on the job which makes the private security provider both inefficient and otherwise unfit to render effective service because of a loss of confidence in the private security provider's ability to perform competently.

(c) If reliable evidence is received by the Board or Department that a private security provider lacks good moral fitness, a rebuttable presumption will be raised that the private security provider does not possess the requisite moral fitness to be a private security provider. The burden will be upon the private security provider to prove good moral fitness.

(4) Criminal History. An applicant for certification or licensure must not:

(a) Have been convicted of a person felony, as defined in the rules of the Oregon Criminal Justice Commission: ORS 162.165 (Escape I), 162.185 (Supplying Contraband as defined in Crime Categories 6 and 7 (Appendix 3)), 163.095 (Aggravated Murder), 163.115 (Murder), 163.118 (Manslaughter I), 163.125 (Manslaughter II), 163.145 (Negligent Homicide), 163.160(3) (Assault IV Felony), 163.165 (Assault III), 163.175 (Assault II), 163.185 (Assault I), 163.205 (Criminal Mistreatment I), 163.213 (Use of Stun Gun/Tear Gas/Mace I), 163.225 (Kidnapping II), 163.235 (Kidnapping I), 163.275 (Coercion as defined in Crime Category 7 (Appendix 3)), 163.355 (Rape III), 163.365 (Rape II), 163.375 (Rape I), 163.385 (Sodomy III), 163.395 (Sodomy II), 163.405 (Sodomy I), 163.408 (Sexual Penetration II), 163.411 (Sexual Penetration I), 163.425 (Sexual Abuse II), 163.427 (Sexual Abuse I), 163.525 (Incest), 163.535 (Abandon Child), 163.537 (Buying or Selling a Person Under 18 Years of Age), 163.670 (Using Child in Display of Sexually Explicit Conduct), 163.684 (Encouraging Child Sex Abuse I), 163.686 (Encouraging Child Sex Abuse II), 163.688 and 163.689 (Possession of Materials Depicting Sexually Explicit Conduct of a Child I and II), 163.732 (Stalking), 163.747 (Violation of Officer's Stalking Order), 163.750 (Violation of Court's Stalking Order), 164.075 (Theft by Extortion as defined in Crime Category 7 (Appendix 3)), 164.225 (Burglary I as defined in crime Categories 8 and 9, Appendix 3), 164.325 (Arson I), 164.395 (Robbery III), 164.405 (Robbery II), 164.415 (Robbery I), 164.877(3) (Tree Spiking (Injury)), 166.087 (Abuse of Corpse I), 166.165 (Intimidation I), 166.220 (Unlawful Use of a Weapon), 166.275 (Inmate in Possession of Weapon), 166.385(3) (Felony Possession of a Hoax Destructive Device), 167.012 (Promoting Prostitution), 167.017 (Compelling Prostitution), 468.951 (Environmental Endangerment), 811.705 (Hit and Run Vehicle (Injury)), 830.475 (Hit and Run (Boat)) and attempts or solicitations to commit any Class A or Class B person felonies as defined herein, or an equivalent crime with similar elements in another jurisdiction. Only Class B and Class C felony convictions may be considered by the Policy Committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2). There will be no waivers granted for Class A felony convictions.

(b) Within the 10-year period prior to applying for, or during, certification or licensure, must not:

(A) Have been incarcerated, placed on probation or paroled as the result of conviction of any felony, other than those described in subsection (a) of this section in this, or any other, jurisdiction. Class B and Class C felony convictions may be considered on a limited basis by the Policy Committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2).

(B) Have been convicted of violating ORS 163.435 (Contributing to the Sexual Delinquency of a Minor), 163.672 (1993 Edition) (Possession or Depiction of Sexual Conduct of a Child), 163.673 (1993 Edition) (Dealing in the Depiction of Sexual Conduct of a Child), 167.007 (Prostitution), 167.062 (Sadomasochistic Abuse or Sexual Conduct in a Live Show), 167.065 (Furnishing Obscene Material), 167.070 (Sending Obscene Material to Minors), 167.075 (Exhibiting An Obscene Performance to a Minor), 167.080 (Displaying Obscene Material to Minors), 167.087 (Disseminating Obscene Material) or an equivalent crime with similar elements in another jurisdiction. There will be no waivers granted for these listed convictions.

(C) Have been convicted of a person misdemeanor, as defined in the rules of the Oregon Criminal Justice Commission: ORS 161.405(2)(d) Attempt or 161.435(2)(d) Solicitation to Commit any Class C person felony as defined by the Oregon Criminal Justice Commission, 162.315 (Resisting Arrest), 163.160 (Assault IV), 163.190 (Menacing), 163.195 (Recklessly Endangering Another Person), 163.200 (Criminal Mistreatment II), 163.208 (Assaulting a Public Safety Officer), 163.212 (Unlawful Use of an Electrical Stun Gun, Tear Gas or Mace II), 163.545 (Child Neglect II), 163.575 (Endangering the Welfare of a Minor), 163.605 (Criminal

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Defamation), 163.732(1) (Stalking), 163.750(1) (Violating Court's Stalking Protective Order), 166.065(4) [Harassment (Offensive Sexual Contact)], 166.155 (Intimidation II), 166.385 (Possession of Hoax Destructive Device) or an equivalent crime with similar elements in another jurisdiction;

(D) Have been convicted of the following misdemeanors: ORS 162.075 (False Swearing), 162.085 (Unsworn Falsification), 162.145 (Escape III), 162.247 (Interfering with a Peace Officer), 162.295 (Tampering with Physical Evidence), 162.335 (Compounding a Felony), 162.365 (Criminal Impersonation), 162.369 (Possession of False Law Enforcement Identification Card), 162.385 (Giving False Information to Police Officer), 163.465 (Public Indecency), 163.709 (Unlawful Directing of Light from a Laser Pointer), 164.045 (Theft II), 164.125(5)(b) (Theft of Services), 164.140 (Criminal Possession of Rented or Leased Personal Property), 164.235 (Possession of Burglar's Tools), 164.255 (Criminal Trespass I), 164.265 (Criminal Trespass while in Possession of a Firearm), 164.335 (Reckless Burning), 164.354 (Criminal Mischief II), 164.369 (Interfering With Police Animal), 164.377(4) (Computer Crime), 165.007 (Forgery II), 165.055(4)(a) (Fraudulent Use of a Credit Card), 165.065 (Negotiating a Bad Check), 166.115 (Interfering With Public Transportation), 166.250 (Unlawful Possession of Firearms), 166.350 (Unlawful Possession of Armor Piercing Ammunition), 166.425 (Unlawful Purchase of Firearm), 167.262 (Adult Using Minor in Commission of Controlled Substance Offense), 471.410 (Providing Liquor to Person under 21 or Intoxicated Person), or an equivalent crime with similar elements in another jurisdiction. Convictions for any of the listed misdemeanors may be considered on a limited basis by the Policy Committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2);

(c) Have been convicted, within the 10-year period prior to applying for, or during, certification or licensure, of a "misdemeanor crime of domestic violence," in this or any jurisdiction. A "misdemeanor crime of domestic violence" means a misdemeanor under the law of any jurisdiction involving the use or attempted use of physical force, or threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is co-habiting with or has co-habited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or a guardian of the victim. Convictions for any of the listed misdemeanors may be considered on a limited basis by the Policy Committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2);

(d) Have been convicted, within the 10-year period prior to applying for, or during, certification or licensure, of a misdemeanor or felony involving the unlawful use, possession, delivery or manufacturing of a controlled substance, or a misdemeanor or felony of similar elements, in this or any jurisdiction: 475.525 (Sale of Drug Paraphernalia), 475.991 (Unlawful Delivery of Imitation Controlled Substance), 475.992 (Prohibited Acts, Manufacturing or Delivering of a Controlled Substance within 1,000 feet of School), or an equivalent crime with similar elements in another jurisdiction.

(e) Have been convicted, within the seven-year period prior to applying for, or during, certification or licensure, of the following misdemeanors, or a misdemeanor of similar elements, in this or any jurisdiction; 164.043 (Theft III), 164.125(5)(a) (Theft of Services), 162.375 (Initiating a False Report), 166.240 (Carrying of Concealed Weapons), or an equivalent crime with similar elements in another jurisdiction. Convictions for any of the listed misdemeanors may be considered on a limited basis by the Policy Committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2);

(f) Have been required to register or be registered as a sex offender under ORS 181.595, 181.596 or 181.597. There will be no waivers granted for any persons in this category.

(5) Firearms Restrictions. An applicant for armed private security professional or instructor certification will not be eligible for certification if the applicant:

(a) Has been committed to the Mental Health and Development Disability Services Division under ORS 426.130, or similar order in another jurisdiction;

(b) Has been found to be mentally ill and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

(c) Is prohibited under US Code Title 18, Section 922(g)(8) (relating to civil restraining orders including stalking or harassment) from possessing a firearm in interstate commerce; or

(d) Is prohibited under any law of this state or any federal law from purchasing, owning or possessing a firearm.

(6) Failure to Meet Firearms Criteria. In the event a certified armed private security officer, or an applicant for such certification, should at any time fail to meet the requirements of subsections (4)(a) through (d) or (5)(a)

through (d) herein, the certificant/applicant and the manager, employer or supervisor of the certificant/applicant, must:

(a) Notify the Department or its designee within 48 hours, in writing, of the circumstance making the certificant/applicant ineligible to purchase, own or possess a firearm. The notification must list all facts known, including any written documentation, and must identify a person whom the Department may contact to obtain additional information;

(b) Transfer the employee to an unarmed position until a determination has been made by the Department regarding the status of the certificant/applicant; and

(c) Retrieve any issued weapons and ammunition.

(7) ADA Compliance. Individual employers or entities are expected to conform to federal ADA guidelines as they relate to physical fitness standards.

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

Stat. Auth.: ORS 181.875, 181.878 & 181.883

Stats. Implemented: ORS 181.875 & 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 10-2003(Temp), f. & cert. ef. 6-16-03 thru 12-1-03; DPSST 12-2003, f. & cert. ef. 7-24-03; DPSST 6-2004, f. & cert. ef. 4-23-04; DPSST 9-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 19-2008, f. & cert. ef. 10-15-08

Rule Caption: Amends Eligibility of Public Safety Memorial Fund Board Award to Include Designee.

Adm. Order No.: DPSST 20-2008

Filed with Sec. of State: 10-15-2008

Certified to be Effective: 10-15-08

Notice Publication Date: 9-1-2008

Rules Amended: 259-070-0001, 259-070-0005, 259-070-0010

Subject: A public safety officer who suffers a qualifying death or disability after January 1, 2008 may designate an alternative individual to become eligible for any lump sum benefit or mortgage benefit awarded.

Rules Coordinator: Bonnie Salle-Narvaez—(503) 378-2431

259-070-0001

Policies and Objectives

(1) The policies of the Board are to benefit family members or designees who qualify for monetary awards due to the qualifying death or permanent total disability of public safety personnel.

(2) The Board shall award a lump sum amount of \$25,000 to eligible applicants;

(3) The Board may award the following benefits to eligible applicants:

(a) Health and dental benefits;

(b) Mortgage payments;

(c) Higher education scholarships.

Stat. Auth.: ORS 243.950

Stats. Implemented: ORS 243.950

Hist.: BPSST 2-2000(Temp), f. 4-21-00, cert. ef. 4-27-00 thru 10-16-00; BPSST 5-2000, f. & cert. ef. 9-29-00; DPSST 12-2005, f. & cert. ef. 11-15-05; DPSST 20-2008, f. & cert. ef. 10-15-08

259-070-0005

Definitions

(1) "Board" means the Public Safety Memorial Fund Board.

(2) "Department" means the Department of Public Safety Standards and Training.

(3) "Designee" means a person designated under ORS 243.974.

(4) "Fund" means the Public Safety Memorial Fund.

Stat. Auth.: ORS 243.950

Stats. Implemented: ORS 243.950

Hist.: BPSST 2-2000(Temp), f. 4-21-00, cert. ef. 4-27-00 thru 10-16-00; BPSST 4-2000(Temp), f. & cert. ef. 9-29-00 thru 3-3-01; BPSST 5-2000, f. & cert. ef. 9-29-00; BPSST 1-2001, f. & cert. ef. 1-16-01; BPSST 3-2002, f. & cert. ef. 2-11-02; DPSST 12-2005, f. & cert. ef. 11-15-05; DPSST 20-2008, f. & cert. ef. 10-15-08

259-070-0010

Eligibility

(1) Eligibility of award applies to public safety officers who suffered a qualifying death or disability on or after October 23, 1999. Subject to availability of funds, the Board may award benefits to:

(a) Eligible family members of public safety officers who suffered a qualifying death or disability on or after October 23, 1999;

(b) A designee of a public safety officer who suffered a qualifying death or disability on or after January 1, 2008.

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(2) Prior to acceptance of an initial application, any individual applying for benefits based on a qualifying disability must provide satisfactory evidence that they meet the definition of "permanent total disability" found in ORS 656.206 and OAR 436-030-0055.

(3) Satisfactory evidence is established by submitting:

(a) Proof of Determination of Permanent Total Disability in compliance with the Worker's Compensation Division of the Department of Consumer and Business Services; or

(b) Competent written vocational testimony by a person fully certified by the State of Oregon to render vocational services that the applicant meets the definition of "permanent total disability" found in ORS 656.206 and OAR 430-030-0055.

Stat. Auth.: ORS 245.950

Stats. Implemented: ORS 245.950

Hist.: BPSST 2-2000(Temp), f. 4-21-00, cert. ef. 4-27-00 thru 10-16-00; BPSST 5-2000, f. & cert. ef. 9-29-00; BPSST 3-2002, f. & cert. ef. 2-11-02; DPSST 12-2005, f. & cert. ef. 11-15-05; DPSST 1-2007, f. & cert. ef. 1-12-07; DPSST 20-2008, f. & cert. ef. 10-15-08

Department of Revenue

Chapter 150

Rule Caption: Property tax exemptions.

Adm. Order No.: REV 9-2008

Filed with Sec. of State: 9-23-2008

Certified to be Effective: 9-23-08

Notice Publication Date: 7-1-2008

Rules Amended: 150-307.175

Subject: 150-307.175 is amended to reflect changes enacted by Oregon Laws 2007, Chapter 885 (HB 3488). The rule describes alternative energy systems that qualify for the exemption and give examples of exempt and taxable property associated with those systems.

Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-307.175

Property Tax Status of Alternative Energy Systems

Definitions:

(1) "Alternative energy system" means a solar, geothermal, wind, water, fuel cell or methane gas energy system used for the purpose of heating, cooling or generating electrical energy.

(a) Solar alternative energy systems use the sun and may include but are not limited to:

(A) Solar electric or photovoltaic (PV) systems that consist of solar electric panels (photovoltaic cells) that convert sunlight directly into electricity and may include connective wiring, solar electric modules, inverter, mounting system, disconnection equipment, net-metering system, and storage batteries,

(B) Solar heating or cooling systems that consist of active, passive, and thermal systems used for water, or space heating or cooling and may include south facing windows, trombe walls, extra thick concrete/stone floors designed for the absorption of heat, thermal chimneys, solar panels or collectors which directly heat coils of water on the roof or outside walls, extra hot water storage tanks, connecting piping, sensors, valves, pumps, heat exchangers, and controls.

(b) Geothermal alternative energy systems use heat extracted from the earth and may include but are not limited to geothermal heat pumps (GHPs), which can be used for both heating and cooling of buildings and hot water needs.

(A) Ground source geothermal heat pumps consist of buried loops or coils of tubing used to exchange heat.

(B) Water source geothermal heat pumps consist of loops submerged in a lake, pond or well.

(c) Wind alternative energy systems produce mechanical or electrical power or energy. Wind turbines typically consist of a propeller driven generator attached to a building or tower used to drive a direct current generator which is generally tied to a battery storage system and used to power household or business needs. The system may be connected to a net-metering system or be completely off-grid. These systems may include:

(A) Small stand-alone wind turbines.

(B) Groups of wind turbines.

(d) Water alternative energy systems or hydropower systems are used to generate electricity. These systems may include but are not limited to micro hydro systems which are small-scale facilities providing electricity to power homes, small farms, and businesses. Micro hydro systems typically consist of a small water drive wheel or turbine which is connected to an electric generator and the output is connected to the user by power wiring. These systems may include a storage battery system and net-metering system.

(e) Fuel cell alternative energy systems produce electricity electrochemically and non-reversibly, using hydrogen-rich fuel and oxygen, pro-

ducing an electric current, water, and thermal energy. These systems may include but are not limited to fuel cell systems using reformed fossil fuels which also produce carbon dioxide.

(f) Methane gas alternative energy systems are typically gas collection systems used to fuel an electric generator and may also include methane digester systems. These systems may include but are not limited to:

(A) Methane collection systems installed at closed or partially closed land fills and used to fuel electric generator systems.

(B) Methane digester systems owned by and installed at dairy farms and used to generate power.

(2) "Principal business activity" means the primary commercial activity engaged in by an individual or entity for the production of income.

(3) Alternative energy systems owned or leased by individuals or entities whose principal business activity is the production, transportation or distribution of energy qualify for exemption only if the system is a net metering facility, as defined in ORS 757.300, or other system primarily designed to offset onsite electricity use.

Example 1: The company's "principal business activity" is the production of energy. It installs solar panels to generate electricity. The solar energy system includes a net metering system, and the company sells most of the power to its utility company. Therefore, the solar energy system qualifies for the property tax exemption.

Example 2: A utility owns a large wind generating farm and its "principle business activity" is the production and distribution of energy. The energy system is not a net metering facility nor is it designed to offset onsite electricity use. Therefore, the wind energy system does not qualify for the property tax exemption.

(4) Alternative energy systems owned or leased by individuals or entities whose principal business activity is not the production, transportation or distribution of energy qualify for exemption.

Example 3: A methane collection system installed at a closed portion of an otherwise active landfill is used to fuel an electric generating facility. The entity's "principal business activity" is waste disposal; therefore, the methane collection and electricity generation is secondary and the system qualifies for the property tax exemption.

Example 4: A methane digester system installed at a dairy farm is used to fuel an electric generator system to generate power for the dairy farm's operations. The "principal business activity" is the dairy farm; therefore, the methane collection and electric generation is secondary and the system qualifies for the property tax exemption.

Example 5: An industrial facility installs a methane collection system where methane gas is compressed and used as a fuel source to generate power for the facility's operations. Its "principal business activity" is not the production, transportation, or distribution of energy. The methane collection system qualifies for the property tax exemption because the production of energy is secondary.

(5) Alternative energy systems that provide heating, cooling or that generate electrical energy for personal consumption qualify for the property tax exemption.

(6) Alternative energy system devices and components are exempt to the extent that they add real market value (RMV) to the property. The exemption equals any positive amount obtained by subtracting the RMV of the property as if it were not so equipped with the alternative energy system from the RMV of the property equipped with the alternative energy system.

Example 6:

\$450,000	RMV of Subject Property Equipped with AES
-400,000	RMV of Comparable Property not Equipped with AES
\$50,000	Positive RMV of Subject Property Equipped with AES to be exempted

(a) Examples of property that may qualify for the exemption include but are not limited to solar panels, PV cells, connective wiring, storage batteries, wind turbines, connective piping, tubing, pumps, heat exchangers, generators, and collectors.

(b) Examples of property that typically do not qualify for the exemption to the extent they have uses other than an exclusive use for the heating, cooling or generation of electrical energy include but are not limited to porches, sunrooms, solariums, and greenhouses.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 307.175

Hist.: RD 2-1988, f. 1-11-88, cert. ef. 1-15-88; RD 8-1991, f. 12-30-91, cert. ef. 12-31-91; REV 10-2002, f. & cert. ef. 12-31-02; REV 9-2008; f. & cert. ef. 9-23-08

Rule Caption: Income tax subtraction; real estate sales tax withholding.

Adm. Order No.: REV 10-2008

Filed with Sec. of State: 9-23-2008

Certified to be Effective: 9-23-08

Notice Publication Date: 7-1-2008

Rules Amended: 150-314.258, 150-316.846

Rules Repealed: 150-314.258(T)

Subject: 150-316.846 provides a definition of "housing expense" for purposes of the subtraction allowed for scholarships under ORS 316.846.

150-314.258 is adopted to reflect changes enacted by Oregon Laws 2008, Chapter 54 (SB 1101) to requirements for withholding

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of tax on certain real estate transactions. The temporary rule, 150-314.258(Temp) is repealed.

Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-314.258

Withholding on Real Property Conveyances

(1) For purposes of ORS 314.258 and this rule:

(a) "Authorized agent" does not include an employee of a transferee who merely makes payments to a transferor in connection with a conveyance, nor a person who performs services such as inspections, appraisals, drafting services, and recording services performed for the benefit of a transferor or transferee in a conveyance.

(b) "Consideration" includes any encumbrance that the transferee agrees to pay or assume as well as the fair market value of any property conveyed or transferred to a transferor, or the fair market value of any service provided to a transferor.

(2) Withholding requirements. Except as provided in subsection (2)(a) of this rule, an authorized agent must withhold tax for the year in which income is recognized for Oregon tax purposes and remit the tax withheld to the department.

(a) An authorized agent is not required to withhold if:

(A) The withholding amount calculated is less than \$100 per transferor;

(B) The total consideration for the property is less than or equal to \$100,000;

(C) The person making a conveyance is a resident of Oregon as defined in ORS 316.027 on the closing date of the conveyance;

(D) The person making a conveyance is a C-Corporation that is qualified to do business in Oregon on the closing date of the conveyance;

(E) The transferor delivers to the authorized agent a written assurance as required in IRC section 6045(e) that the entire gain qualifies for exclusion under IRC section 121;

(F) The transferor is an estate, certain trusts, S corporation, general partnership, or limited partnership, or a limited liability company that for purposes of Treasury Regulation section 301.7701-3 has not elected to be classified as an association taxable as a corporation and is not a disregarded entity the sole member of which is a transferor within the meaning of ORS 314.258(1)(f);

(G) The transferor is an entity not described in ORS 314.258(1)(f), such as a government agency or instrumentality, or a municipal or public corporation;

(H) The authorized agent is an attorney involved in a transaction where a licensed escrow agent is providing services for the conveyance; or

(I) The transferor or the transferor's tax advisor executes a written affirmation under penalty of perjury that the conveyance is not likely to be taxable to the transferor under Oregon law during the tax year of the transferor in which the conveyance occurs. Examples of such transactions include, but are not limited to, a conveyance that constitutes or is accomplished as part of:

(i) A transfer that is the sale of a principal residence and the gain qualifies for exclusion under IRC section 121;

(ii) A transfer to a corporation controlled by the transferor for purposes of IRC section 351;

(iii) A transfer pursuant to a tax-free reorganization under IRC section 361;

(iv) A transfer by a tax-exempt entity that does not give rise to unrelated business taxable income to the transferor under IRC section 512;

(v) A transfer to a partnership in exchange for an interest in the partnership such that no gain or loss is recognized under IRC section 721;

(vi) A transfer that qualifies for nonrecognition under IRC section 1031 or 1033 and the transferor enters into such a transaction;

(vii) A transfer between spouses or incident to divorce for purposes of IRC section 1041; or

(viii) Any other transaction in which gain is not recognized for purposes of ORS Chapters 316, 317, and 318, as explained to the department in writing at the time the transaction is completed.

(b) The authorized agent must send the tax withheld to the department within 20 days of the date the proceeds from the conveyance are disbursed to the transferor.

(c) If there is more than one transferor for one parcel, the authorized agent must withhold tax on each non-exempt transferor as if all transferors had equal ownership in the real property unless the transferor establishes to the authorized agent the actual ownership percentage in the real property, such as through recorded documents, tenancy-in-common agreements, or other documents. If the transferor establishes other than equal ownership, the authorized agent must withhold in proportion to each non-exempt transferor's actual ownership percentage in the real property.

(d) A transferor may claim the amount withheld by an authorized agent as a credit on the transferor's corresponding personal income tax return or corporate income or excise tax return.

(e) If the transferor is a limited liability company, the sole member of which is a transferor within the meaning of ORS 314.258(1)(f) (2008), and the limited liability company is a disregarded entity for federal income tax purposes, the transferor is the single member for purposes of this rule.

(3) Calculation of amount to be withheld.

(a) An authorized agent is required to withhold from the consideration payable to the transferor and remit to the department the least of:

(A) Four percent of the consideration for the real property;

(B) Eight percent of the amount of gain on the conveyance that is includable in the transferor's Oregon taxable income; or

(C) The net proceeds from the conveyance.

(b) A transferor subject to withholding must deliver to an authorized agent at or before conveyance of the real property a written affirmation, signed under penalty of perjury, identifying the amount of withholding required by subsection (a) of this section. If the transferor fails to deliver the form timely, the authorized agent must withhold four percent of the amount of consideration, or if less, all the net proceeds.

Example 1: Anne sold her rental property for \$300,000. Her federal and Oregon adjusted basis in the property is \$250,000. She has an outstanding mortgage against the property of \$157,000 and closing costs are \$3,350. At closing, she determines she is not exempt from withholding so her escrow officer must withhold tax based on the least of four percent of the consideration, eight percent of the gain includable in Oregon taxable income, or all of the net proceeds.

Step 1) Determine four percent of the consideration. In this case, it is \$12,000 ($\$300,000 \times 0.04 = \$12,000$).

Step 2) Determine eight percent of the gain includable in Oregon taxable income as follows:

\$300,000 Consideration less

\$250,000 Federal and Oregon adjusted basis equals

\$50,000 Gain

\$4,000 ($\$50,000 \times 0.08 = \$4,000$) is eight percent of the gain.

Step 3) Determine the "net proceeds" as follows:

\$139,650 Net amount disbursed to seller (\$300,000 consideration - \$157,000 mortgage - \$3,350 closing costs = \$139,650) \$139,650 is the "net proceeds" from this conveyance.

Step 4) Because eight percent of the gain (\$4,000) is the lowest of the amounts calculated in steps one, two, or three, Anne's escrow officer would withhold and remit \$4,000.

(c) Installment sales. If a transferor elects to recognize income from the conveyance using the installment method under IRC section 453, the transferor may reduce the gain by the amount of the installment that will be recognized in future years. The withholding calculation is based on the entire consideration and net proceeds, or the modified gain to determine the lowest of the three methods provided in subsection (a) of this section.

Example 2: Assume the same facts as Example 1 except that Anne is selling the property on an installment basis and recognizing the income from the sale using the installment method under IRC section 453 over five years in equal installments. Because Anne is selling the property over time, the amount of gain includable in Oregon taxable income is \$10,000 for the year of the conveyance ($\$50,000 \div 5$ years = \$10,000) and \$10,000 in each year thereafter. Eight percent of the amount included in Oregon taxable income is \$800. Anne's escrow officer would withhold and remit \$800 for the year of the conveyance because it is the least amount using the three methods provided in subsection (a) of this section.

(d) Deferred exchanges. If a transferor enters into a like-kind exchange under IRC section 1031, withholding is not necessary at the time the transferor relinquishes the property to a Qualified Intermediary (QI) unless part of the proceeds from the sale are disbursed to the transferor.

Example 3: Robert entered into an exchange under IRC section 1031 to defer tax on the gain from the sale of his rental property. The consideration for the property was \$500,000. Robert's federal and Oregon adjusted basis in the property is \$150,000. He holds a first mortgage of \$190,000 and he incurred \$10,000 in costs related to the conveyance. Robert requested \$50,000 from the consideration directly. Robert's escrow officer transferred title of the property and \$250,000 of the consideration to a QI and the escrow officer disbursed \$50,000 directly to Robert as requested. The escrow officer is required to withhold on the amount disbursed to Robert as follows:

Step 1) Determine four percent of the consideration. In this case, it is \$20,000 ($\$500,000 \times 0.04 = \$20,000$).

Step 2) Determine eight percent of the gain includable in Oregon taxable income as follows:

\$500,000 Consideration

\$150,000 Federal and Oregon adjusted basis

\$350,000 Gain

\$300,000 Gain eligible for deferral under IRC section 1031

\$50,000 gain includable in Oregon taxable income.

Eight percent of the gain is \$4,000.

Step 3) Determine the "net proceeds" as follows:

\$50,000 Net amount disbursed to seller shown on the settlement statement before reducing for withholding.

Step 4) The lowest of the amounts calculated in steps one, two, or three is \$4,000 (8 percent of the gain). Robert's escrow officer would withhold and remit \$4,000.

(4) Written affirmation.

(a)(A) To claim exemption under subparagraph (2)(a)(I) of this rule, the transferor or the transferor's tax advisor must complete and sign a written affirmation under penalty of perjury, that the transferor is exempt from withholding because the transferor is unlikely to owe Oregon tax as a result of the conveyance, before the funds related to the transaction are disbursed.

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(B) To determine whether the transferor is unlikely to owe Oregon income tax as a result of the conveyance, the gain may not be offset against any other items of gain, loss, deduction, or credit the transferor expects to claim on the related tax return unless the item is directly related to the conveyance. For example, if an Oregon nonresident must pay tax on the gain from the sale of the Oregon property to both Oregon and the state of residency, and the Oregon nonresident must claim the credit for taxes paid to the state of residency on the Oregon nonresident return, the transferor established that he or she is unlikely to owe Oregon tax as a result of the conveyance.

(C) The transferor must provide the completed written affirmation to the authorized agent providing closing and settlement services.

(b) Basing withholding on the amount of includible gain. If the transferor is subject to withholding, the transferor may calculate tax based on the amount of gain includible in Oregon taxable income. The transferor must complete and sign the written affirmation under penalty of perjury that the calculation is true and accurate to the best of the transferor's knowledge.

(c) Sale of a principal residence. The gain from the sale of a principal residence may qualify for exemption from withholding under either ORS 314.258(3)(e) or 314.258(3)(f). If the transferor is eligible to exclude the entire gain under IRC section 121, they must complete a written assurance similar to that found in IRC section 6045(e) pursuant to 314.258(3)(e) and this rule. If the transferor completes the written assurance, it is in lieu of the written affirmation required under 314.258(3)(f) and subsection (4)(a) of this rule and the transferor need not complete the written affirmation. However, the authorized agent must provide the information contained in the written assurance in the same manner as information contained in the written affirmation. If the gain is not fully excludible under IRC section 121, the transferor must complete the written affirmation calculating the gain under penalty of perjury.

(d) In addition to retaining the completed written affirmation or assurance in the authorized agent's records, the authorized agent must send a copy of the affirmation or assurance to the department within 30 days of the date of the conveyance.

(5) Failure to withhold.

(a) An authorized agent who relies on the written representation made by the transferor that the transferor is either exempt from or not subject to withholding, is not liable for amounts required to be withheld under ORS 314.258. An authorized agent who relies on the calculation shown on the written affirmation provided by the transferor is not liable for the amount that was required to be withheld in excess of that shown on the written affirmation. The transferor is liable for the tax and may be subject to interest charged on the underpayment of estimated tax.

(b) Penalty assessment. The department may assess a failure-to-withhold penalty if an authorized agent fails to demonstrate to the department's satisfaction that the authorized agent met the requirements of ORS 314.258.

(A) For conveyances that occurred before May 23, 2008, the department will not assess the failure-to-withhold penalty if an authorized agent met the requirements of either ORS 314.258 (2007) or 314.258 (2008).

(B) For conveyances that occurred on or after May 23, 2008, the department will not assess the failure-to-withhold penalty if an authorized agent met the requirements of ORS 314.258 (2008) and related rules.

(6) Failure to remit. If an authorized agent withholds tax from the transferor's disbursement and fails to remit the same amount to the department timely, the authorized agent is liable to the State of Oregon for those amounts. The department may collect such amounts from the authorized agent together with interest under ORS 305.220.

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

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

Stat. Auth.: ORS 305.100 & 314.258

Stats. Implemented: ORS 314.258

Hist.: REV 11-2007, f. 12-28-07, cert. ef. 1-1-08; REV 4-2008(Temp), f. & cert. ef. 5-23-08 thru 11-17-08; REV 10-2008, f. & cert. ef. 9-23-08

150-316.846

Scholarship Awards used for Housing Expenses

(1) If a scholarship award is used to pay housing expenses, the taxpayer may subtract the amount paid for such expenses from federal taxable income, but not in excess of the amount of the award included in federal taxable income.

(2) For purposes of ORS 316.846 and this rule, "housing expenses" are the reasonable expenses paid or incurred during the taxable year by an individual for housing for the individual. The term includes expenses attributable to the housing (such as utilities and insurance) and not otherwise taken into account as a deduction on the federal income tax return of the individual. Housing expenses will be treated as reasonable to the extent the department determines the expenses are neither lavish nor extravagant under the circumstances.

Example 1: Jasmine, a student at Oregon State University, receives a scholarship award that she includes in her federal taxable income. She buys a house close to the school. She uses part of the scholarship award to pay the mortgage interest and prop-

erty taxes. She also uses part of the scholarship award to buy food and to fix the roof. Jasmine may subtract the mortgage interest and property taxes from her federal taxable income on her Oregon return if she does not claim them as itemized deductions on her federal return, but not in excess of the amount of the award included in federal taxable income. She may not subtract the food purchases and the cost of fixing the roof.

Example 2: Louis, a student at Portland State University, receives a scholarship award that he includes in his federal taxable income. He rents an apartment with a roommate about three blocks from school. In addition to the rent he is responsible for half of the electric bill and for a monthly parking fee at the apartment complex. He also pays for half of the monthly fee to Rent-A-Center to rent a sofa and loveseat. He uses part of the scholarship award to pay for these housing expenses. Louis may subtract from his federal taxable income on his Oregon return the sum of his portion of the rent, his portion of the electric bill, the parking fees, and his portion of the monthly fees for renting a sofa and loveseat, to the extent such sum does not exceed the amount of the award included in federal taxable income.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.846

Hist.: REV 10-2008, f. & cert. ef. 9-23-08

Rule Caption: Corporation sales factor; penalties; state lodging tax.

Adm. Order No.: REV 11-2008

Filed with Sec. of State: 9-23-2008

Certified to be Effective: 9-23-08

Notice Publication Date: 7-1-2008

Rules Adopted: 150-314.403

Rules Amended: 150-314.665(4), 150-320.305

Subject: 150.314.403 explains how a penalty for a "listed transaction understatement" will be applied to amended tax returns that report such an understatement.

150-314.665(4) is based on a Multistate Tax Commission (MTC) recommended regulation that was updated in 2007. The revised rule provides that costs incurred by a third party on behalf of the taxpayer are to be included in the calculation of direct costs when determining the costs of performance for purposes of income apportionment.

150-320.305 is amended to clarify when non-optional lodging expenses are included in the amount that is subject to the state lodging tax and to provide guidance on taxation of lodging packages offered by lodging providers.

Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-314.403

Listed Transaction Understatement; Penalty

(1) "Return of the taxpayer" for purposes of this penalty is defined as the original return filed with the department that contains a listed transaction understatement, or the most recent amended return filed with the department that contains a listed transaction understatement.

(2) "Net increase in taxable income" for purposes of this penalty is defined as an increase to taxable income or a decrease to a taxable loss.

Example 1: Taxpayer files an original 2006 return that contains a listed transaction understatement. Taxpayer amends the 2006 return and makes no changes to the treatment of the listed transaction. The Department, during an audit, discovers a listed transaction understatement on the taxpayer's return. The listed transaction understatement penalty is based on the net increase in taxable income between the treatment of the listed transaction reported on the amended return and the correct treatment of the listed transaction.

Example 2: Taxpayer files an original 2007 return. Taxpayer amends the 2007 return to report the correct treatment of a listed transaction. The listed transaction understatement penalty is based on the net increase in taxable income between the amount of the listed transaction on the original return and the correct treatment of the listed transaction reported on the amended return.

Stat. Auth.: ORS 314.403, 305.100

Stats. Implemented: ORS 314.403

Hist.: REV 11-2008, f. & cert. ef. 9-23-08

150-314.665(4)

Sales Factor; Sales Other Than Sales of Tangible Personal Property in This State

(1) This rule is effective August 31, 2008 and applies to tax years beginning on or after January 1, 2008. For tax years beginning prior to January 1, 2008 an "income producing activity" did not include transactions performed on behalf of a taxpayer, such as those conducted on the taxpayer's behalf by an independent contractor.

(2) In General. ORS 314.665(4) provides for the inclusion of gross receipts from transactions other than sales of tangible personal property (including transactions with the United States Government) in the numerator of the sales factor; under this section gross receipts are attributed to this state if the income producing activity that gave rise to the receipts is performed wholly within this state. Also, gross receipts are attributed to this state if, with respect to a particular item of income, the income producing activity is performed within and without this state but the greater propor-

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tion of the income producing activity is performed in this state, based on costs of performance. Income Producing Activity; Defined. The term "income producing activity" applies to each separate item of income and means the transactions and activity directly engaged in by the taxpayer in the regular course of its trade or business for the ultimate purpose of obtaining gains or profit. Income producing activity includes transactions and activities performed on behalf of a taxpayer, such as those conducted on its behalf by an independent contractor. Accordingly, income producing activity includes but is not limited to the following:

(a) The rendering of personal services by employees or by an agent or independent contractor acting on behalf of the taxpayer or the utilization of tangible and intangible property by the taxpayer or by an agent or independent contractor acting on behalf of the taxpayer in performing a service.

(b) The sale, rental, leasing, franchising, licensing or other use of real property.

(c) The rental, leasing, franchising, licensing or other use of tangible personal property.

(d) The sale, franchising, licensing or other use of intangible personal property. The mere holding of intangible personal property is not, of itself, an income producing activity.

(3)(a) Where the income producing activity in respect to business income from intangible personal property can be readily identified, the income is included in the denominator of the sales factor and, if the income producing activity occurs in this state, in the numerator of the sales factor as well. For example, usually the income producing activity can be readily identified in respect to interest income received on deferred payments on sales of tangible property (OAR 150-314.665(1)-(A)) and income from the sale, licensing or other use of intangible personal property.

(b) Where business income from intangible property cannot readily be attributed to any particular income producing activity of the taxpayer, the income cannot be assigned to the numerator of the sales factor for any state and must be excluded from the denominator of the sales factor. For example, where business income in the form of dividends received on stock, royalties received on patents or copyrights, or interest received on bonds, debentures or government securities results from the mere holding of the intangible personal property by the taxpayer, the dividends and interest must be excluded from the denominator of the sales factor.

(4) Costs of Performance; Defined. The term "costs of performance" means direct costs determined in a manner consistent with generally accepted accounting principles and in accordance with accepted conditions or practices in the trade or business of the taxpayer to perform the income producing activity that gives rise to the particular item of income. Included in the taxpayer's cost of performance are taxpayer's payments to an agent or independent contractor for the performance of personal services and utilization of tangible and intangible property which give rise to the particular item of income. For purposes of this rule, direct costs do not include costs that are not part of the income producing activity itself, such as accounting or billing expenses.

(5) Application.

(a) In General. Receipts (other than from sales of tangible personal property) in respect to a particular income producing activity performed by the taxpayer are in this state if:

(A) The income producing activity is performed wholly within this state; or

(B) The income producing activity is performed both in and outside this state and a greater proportion of the income producing activity is performed in this state than in any other state, based on costs of performance.

(b) Under the authority provided in ORS 314.670, paragraphs (A)-(C) of this subsection describe when receipts from certain income producing activities are in this state.

(A) Gross receipts from the sale, lease, rental, franchising, or licensing of real property are in this state if the real property is located in this state.

(B) Gross receipts from the rental, lease, franchising, or licensing of tangible or intangible personal property are in this state if the property is located in this state.

(i) The rental, lease, franchising, licensing or other use of tangible or intangible personal property in this state is a separate income producing activity from the rental, lease, licensing or other use of the same property while located in another state; consequently, if the property is within and without this state during the rental, lease, franchising or licensing period, gross receipts attributable to this state must be measured by the ratio that the time the property was physically present or was used in this state bears to the total time or use of the property everywhere during the period.

Example 1: Taxpayer is the owner of 10 railroad cars. During the year, the total of the days each railroad car was present in this state was 50 days. The receipts attributable to the use of the 10 railroad cars in this state are a separate item of income and are determined as follows: 10 cars x 50 days = 500 car days 10 cars x 365 days = 3,650 car days x Total Receipts = Receipts Attributable to this State

(ii) Intangible personal property is located in this state if the property is used in business activity in this state, whether the use is by the taxpayer,

a third-party licensee, or another entity with the right to use the property. Intangible personal property may be used in more than one state at the same time. The use of intangible personal property in this state is a separate income producing activity from use of the same property in another state. Use is determined in each tax year.

(C) Gross receipts for the performance of personal services are attributable to this state to the extent the services are performed in this state. If services relating to a single item of income are performed partly within and partly without this state, the gross receipts from the performance of the services are attributable to this state only if a greater proportion of the services were performed in this state, based on costs of performance. Usually, where services are performed partly within and partly without this state, the services performed in each state will constitute a separate income producing activity; in these cases the gross receipts for the performance of services attributable to this state must be measured by the ratio which the time spent in performing the services in this state bears to the total time spent in performing the services everywhere. Time spent in performing services includes the amount of time expended in the performance of a contract or other obligation that gives rise to the gross receipts. Personal service not directly connected with the performance of the contract or other obligation, as for example, time expended in negotiating the contract, is excluded from the computations.

Example 2: Taxpayer, a road show, gave theatrical performances at various locations in State X and in this state during the tax period. All gross receipts from performances given in this state are attributed to this state.

Example 3: The taxpayer, a public opinion survey corporation, conducted a poll by its employees in State X and in this state for the sum of \$9,000. The project required 600 hours to obtain the basic data and prepare the survey report. Two hundred of the 600 hours were expended in this state. The receipts attributable to this state are \$3,000. 200 hours / 600 hours x \$9,000

(c) Services on behalf of taxpayer. An income producing activity performed on behalf of a taxpayer by an agent or independent contractor is attributed to this state if the income producing activity is in this state.

(A) In order to determine if income producing activity is in this state, consider the following list in sequential order:

(i) When the taxpayer can reasonably determine at the time of filing that the income producing activity is actually performed in this state by the agent or independent contractor, but the activity occurs in more than one state, the location where the income producing activity is actually performed shall be deemed to be not reasonably determinable at the time of filing under this subsection;

(ii) If the taxpayer cannot reasonably determine at the time of filing where the income producing activity is actually performed, when the contract between the taxpayer and the agent or independent contractor indicates it is to be performed in this state and the portion of the taxpayer's payment to the agent or contractor associated with the performance is determinable under the contract;

(iii) If it cannot be determined where the income producing activity is actually performed and the agent or independent contractor's contract with the taxpayer does not indicate where it is to be performed, when the contract between the taxpayer and the taxpayer's customer indicates it is to be performed in this state and the portion of the taxpayer's payment to the agent or contractor associated with the performance is determinable under the contract; or

(iv) If it cannot be determined where the income producing activity is actually performed and neither contract indicates where it is to be performed or the portion of the payment associated with the performance, when the domicile of the taxpayer's customer is in this state. If the taxpayer's customer is not an individual, "domicile" means commercial domicile as defined in ORS 314.610.

(B) If the location of the income producing activity by an agent or independent contractor, or the portion of the payment associated with the performance, cannot be determined under OAR 150-314.665(4)(5)(c)(a)(i) through 150-314.665(4)(5)(c)(a)(iii), or the taxpayer's customer's domicile cannot be determined under 150-314.665(4)(5)(c)(a)(iv), or, although determinable, the income producing activity is in a state where the taxpayer is not taxable, the income producing activity will be disregarded.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.665 & 314.670

Hist.: 12-70; 8-73; 12-31-85, Renumbered from 150-314.665(3); RD 5-1994, f. 12-15-94, cert. ef. 12-31-94; REV 11-2006, f. 12-27-06, cert. ef. 1-1-07; REV 11-2008, f. & cert. ef. 9-23-08

150-320.305

State Lodging Tax

(1) Definitions. For purposes of ORS 320.305 and 320.308 and the rules thereunder:

(a) "Nonprofit facility" means a lodging facility that is owned by an IRC 501(c) exempt organization or an organization described in ORS 65.001(31) and that is not operated for profit.

(b) "Transient lodging provider" includes a person who operates a facility, whether in the capacity of owner, managing agent, lessee,

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sub-lessee, mortgagee in possession, licensee, concessionaire, or any other capacity.

(2) **Public and Private Providers Must Collect the Tax.** The state lodging tax applies to rents charged for dwelling units, recreational vehicle spaces, and tent spaces provided by public and private persons. It applies to dwelling units and recreational vehicle and tent spaces offered to the general public by state and local parks departments. It also applies to dwelling units and spaces offered for rent to the general public on federal lands operated by a concessionaire on a contract basis with a federal agency, such as the U. S. Forest Service, Bureau of Land Management, and the National Parks Service.

(3) **Services Included in the Fee for Lodging.** If a separate fee is charged for a service and the service is optional, that fee is not subject to the state lodging tax. Examples of optional services include, but are not limited to: pay-per-view movies, room service, use of an honor bar or restaurant meals charged to the room. If a separate fee is charged for a service and the service is not optional, or if the value of a service is included in the normal lodging rate, the amount allocated to the service is subject to the state lodging tax. Examples of non-optional services include, but are not limited to: cleaning service, free breakfast, pet charges, free transportation to the airport and providing an extra bed. If the provider offers a lodging package that includes something that is not associated with the actual lodging or is provided by a third party, only the regular lodging rate that would have been charged absent the package item is subject to the state lodging tax. Examples of lodging packages include, but are not limited to: a package consisting of a night of lodging and a round of golf for two, or a romance package that includes a night of lodging, a bottle of wine and dinner at a local restaurant. Any allocation made for the state lodging tax should be consistent with the allocation for a local lodging tax.

Example 1: The ABC Bed and Breakfast charges \$100 per night for a room. Guests are provided a breakfast that is included in the per-night fee. Guests may also have lunch or dinner at ABC and may charge the cost of these meals to their room. ABC will collect tax on \$100 per night because the breakfast is included in the room fee. The tax does not apply to any charges for optional meals purchased by ABC's guests.
Example 2: The High Mountain Resort offers winter lodging packages for customers. Customers can purchase a weekend package that includes two nights lodging and two ski lift tickets for a nearby ski resort for \$250. Their regular charge for weekend lodging during the winter for a two night stay is \$200. The state lodging tax will be collected on \$200 because that represents the charge for providing lodging.

Example 3: The Highlife Hotel charges a standard room rate based on single occupancy. The Young family has two children and a dog. They rent a room for one night. The basic room rate is \$80 per night. There is a \$10 charge for a second adult. There is no charge for the children. The Youngs request a crib that costs an additional \$10. There is also a \$10 charge for the family dog. The state lodging tax applies to all of the additional fees as well as the standard room rate. The total amount subject to tax is \$110.

(4) **Use of a Managing Agent.** If a transient lodging provider uses a managing agent that is not an employee, the managing agent is considered the provider for the purposes of the tax and has the same duties and liabilities as the operator. Compliance with the provisions of the state lodging tax by either the lodging provider or the managing agent is considered compliance by both.

(5) **Registration of Providers.** A transient lodging provider must register with the department on forms provided by the department.

(6) **Penalty Imposed.** The person submitting the return required by ORS 320.315 must sign the return and is subject to the penalty for false swearing under ORS 162.075, which is a Class A misdemeanor.

Stat. Auth.: ORS 305.100 & 320.315

Stats. Implemented: ORS 320.305

Hist.: REV 3-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; REV 3-2004, f. & cert. ef. 6-25-04; REV 3-2005, f. 12-30-05, cert. ef. 1-1-06; REV 11-2008, f. & cert. ef. 9-23-08

Department of State Lands Chapter 141

Rule Caption: Rules governing leases and licenses for removing aggregate from state-owned submerged and submergible land.

Adm. Order No.: DSL 2-2008

Filed with Sec. of State: 10-15-2008

Certified to be Effective: 10-15-08

Notice Publication Date: 8-1-2008

Rules Adopted: 141-014-0200, 141-014-0210, 141-014-0220, 141-014-0230, 141-014-0240, 141-014-0250, 141-014-0260, 141-014-0270, 141-014-0280, 141-014-0290, 141-014-0300, 141-014-0310, 141-014-0320, 141-014-0330, 141-014-0340, 141-014-0350, 141-014-0360, 141-014-0370, 141-014-0380, 141-014-0390, 141-014-0400, 141-014-0410, 141-014-0420

Rules Repealed: 141-014-0070, 141-014-0075, 141-014-0080, 141-014-0085, 141-014-0090, 141-014-0095, 141-014-0100, 141-014-0105, 141-014-0110, 141-014-0115, 141-014-0120

Subject: These rules:

(1) Govern the granting of leases and licenses for the removal or use of (a) rock, sand, gravel and silt derived from state-owned submerged and submersible land (termed "material"); and (b) state-owned dredged material that has been placed on either land controlled by the Department of State Lands or land belonging to another person.

(2) Describe when compensation is due to the Department for the removal or use of material.

(3) Are in addition to other rules that may also be applicable to the removal or use of Division 85 (Administrative Rules Governing the Issuance and Enforcement of Removal-Fill Authorizations Within Waters of Oregon Including Wetlands).

Rules Coordinator: Elizabeth Martino — (503) 986-5239

141-014-0200

Purpose and Applicability

These rules:

(1) Govern the granting of leases and licenses for the removal or use of:

(a) Rock, sand, gravel and silt derived from state-owned submerged and submersible land (hereafter referred to as "material"); and

(b) State-owned dredged material that has been placed on either land controlled by the Department of State Lands (hereafter referred to as "Department") or land belonging to another person.

(2) Describe when compensation is due to the Department for the removal or use of material.

(3) Are in addition to other rules that may also be applicable to the removal or use of material such as Division 85 (Administrative Rules Governing the Issuance and Enforcement of Removal-Fill Authorizations Within Waters of Oregon Including Wetlands).

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560

Stats. Implemented: ORS 274.525 & 274.550

Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0210

Definitions

(1) **"Applicant"** is any person applying for an authorization to remove or use material, or the successful bidder at an auction prior to final lease execution.

(2) **"Article of Commerce"** is material that is bought, sold or exchanged in any manner for goods or services and that otherwise would have to be acquired from alternate sources. Material is not an article of commerce if it:

(a) Remains in-place on the upland where it was first deposited for disposal after dredging (place first deposited) and is not used for any purpose for which compensation is owed to the Department under the provisions of these rules;

(b) Is contaminated and put to beneficial use; or

(c) Is used solely for a public purpose.

(3) **"Asset Management Plan"** is the plan adopted by the State Land Board that provides the policy direction and management principles to guide both the short and long-term management by the Department of the Common School Fund's real estate assets.

(4) **"Authorization"** is a written lease or license issued by the Department allowing the holder of the authorization to remove or use material pursuant to the terms and conditions of the authorization.

(5) **"Authorized Area"** is the area of state-owned upland and submerged or submersible land from which the Department will allow a person to remove or use material through a lease or license.

(6) **"Beneficial Use"** is any use for which contaminated material is a suitable substitute for non-contaminated material.

(7) **"Channel Improvement"** is a removal activity conducted under contract or undertaken by a government body to improve federally authorized navigation channels in accordance with official minimum project specifications.

(8) **"Compensation"** is the amount of money paid to the Department to remove or use material.

(9) **"Contaminated Material"** is rock, sand, gravel and silt which is a part of, or originated from state-owned submerged and submersible land that contains a hazardous material as defined in ORS 466.605. Contaminated material does not include clean fill.

(10) **"Department"** means the Department of State Lands.

(11) **"Director"** means the Director of the Department of State Lands or designee.

(12) **"Disposal"** is the permanent or long-term placement of dredged material on upland.

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(13) “**Dredged material**” is material that has been dredged from state-owned submerged and submersible land and placed on either state land or land belonging to another person during the process of:

(a) Constructing, maintaining or improving channels, harbors, marinas or flood control projects;

(b) Constructing bridges or other structures;

(c) Placing pipelines; or

(d) Conducting other similar activities.

(14) “**Flood Control**” is an activity undertaken by a person to construct, maintain or improve flood control structures, channels or projects.

(15) “**Government Body**” means the State of Oregon, a political subdivision, the United States of America or an agency thereof.

(16) “**Harbor Improvement**” is an activity undertaken by a person pursuant to an authorization issued by the Department to construct, maintain or improve a harbor area that has navigational access to a federally designated navigation channel.

(17) “**Lease**” is a written authorization issued by the Department to a specific person allowing the exclusive removal or use of a specific amount of material from a specific area under specific terms and conditions for a term not to exceed 10 calendar years.

(18) “**Lessee**” refers to any person having a lease to remove or use material.

(19) “**License**” is a written authorization issued by the Department to a specific person allowing the non-exclusive removal or use of a specific amount of material from a specific area under specific terms and conditions for a term of less than three calendar years.

(20) “**Licensee**” refers to any person having a license to remove or use material.

(21) “**Line of Ordinary High Water**” means the line on the bank or shore to which the high water ordinarily rises annually in season.

(22) “**Line of Ordinary Low Water**” means the line on the bank or shore to which the low water ordinarily recedes annually in season.

(23) “**Material**” means rock, sand, gravel and silt that is a part of, or originated from state-owned submerged and submersible land.

(24) “**Non-Commercial Use**” means a use that does not result in or is not associated with any monetary consideration or gain.

(25) “**Non-Trust Land**” is land owned or managed by the Department other than Trust Land. Examples of Non-Trust Land include state-owned Swamp Land Act Land, and state-owned submerged and submersible land (land below ordinary high water) under navigable and tidally influenced waterways.

(26) “**Operating Plan**” is a document submitted with an application for a lease or license to the Department by an applicant describing:

(a) The method(s) and equipment they intend to use to remove and, if applicable, process material from an authorized area;

(b) The sequence of when and where material will be removed over the term of the lease or license; and

(c) How the applicant will address environmental issues associated with the proposed removal of material.

(27) “**Person**” includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies as well as any state or other governmental or political subdivision or agency, public corporation, public authority, or Indian Tribe.

(28) “**Place First Deposited**” is the location on the upland where material removed from state-owned submerged and submersible land is deposited for long-term or permanent placement or use. Examples of a “place first deposited” are any of the upland sites in Oregon adjacent to the Columbia River where material removed from that waterway during channel improvement is conveyed by pipeline from the dredge and placed for long-term or permanent storage.

(29) “**Political Subdivision**” means any local government unit, including but not limited to, a county, city, town, port commission or district, that exists under the laws of Oregon and has power to levy and collect taxes.

(30) “**Preference Right**” means a riparian property owner’s statutory privilege, as found in ORS 274.040, to obtain a lease without advertisement or competitive bid for the state-owned submerged and submersible land that fronts and abuts the riparian owner’s property. The Department will not recognize a claim of lease preference right from a non-riparian owner. A person claiming the right of occupancy to submerged and submersible land under a conveyance recorded before January 1, 1981, has a preference right to the requested area

(31) “**Preference Right Holder**” means the person holding the preference right to lease as defined in these rules and ORS 274.040.

(32) “**Public Purpose**” is the removal or use of material if it is:

(a) Removed for channel or harbor improvement or flood control;

(b) Used to fill, dike or reclaim land owned by the state or a political subdivision if that land is located not more than two miles from the bank of the waterway from which the material was removed;

(c) Used to create, maintain or enhance fish or wildlife habitat;

(d) Used to maintain public beaches;

(e) Removed because it is determined to be contaminated with a hazardous material (as defined in ORS 466.605);

(f) Used by a state agency or political subdivision to fill any portion of a waterway up to an elevation of one foot above the line of ordinary high water of that waterway;

(g) Used solely for a public purpose by a political subdivision; or

(h) Otherwise exempt from payment of compensation by state law.

(33) “**Reclaiming Land**” or “**Reclaim**” means raising the elevation of a portion of land within a 100-year flood plain (as determined by the Federal Emergency Management Administration) to not more than one foot of elevation higher than the highest elevation of the 100-year flood plain, or protecting land otherwise in the 100-year flood plain by the construction of dikes or other flood control improvements.

(34) “**Removal**” or “**Remove**” means the:

(a) Extraction of material from state-owned submerged and submersible land by mechanized or hand-powered equipment; or

(b) Extraction, moving, spreading, leveling or other relocation of material from the place where it was first deposited to another location on, adjacent to, or away from that site by mechanized or hand-powered equipment.

(35) “**Reporting Period**” is the length of time or frequency for which a lessee or licensee shall report the amount of material removed or used, and for which compensation shall be paid to the Department. The Department shall determine and establish the reporting period as a term of the lease or license.

(36) “**Short Tons**” is a unit of material equal to 2,000 pounds.

(37) “**State Agency**” means every state officer, board, commission, department, institution, branch or agency of state government, whose costs are paid wholly or in part from funds held in the State Treasury, except:

(a) The Legislative Assembly, the courts and their officers and committees;

(b) The Public Defense Services Commission; and

(c) The Secretary of State and the State Treasurer in the performance of the duties of their constitutional offices.

(38) “**State-Owned Waterway**” and “**State-Owned Submerged and Submersible Land**” refers to any Oregon waterway, the submerged and submersible land of which has been determined through application of the federal test for navigability by the State Land Board, the courts, or the Oregon Legislative Assembly to be owned by the State of Oregon, or otherwise acquired by the State of Oregon. (A list of these waterways can be obtained from the Department of State Lands or found on the agency’s website: www.oregonstatelands.us)

(39) “**Submerged Land**” means land lying below the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.

(40) “**Submersible Land**” means land lying above the line of ordinary low water and below the line of ordinary high water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.

(41) “**Trust Land**” is land granted to the state upon its admission into the Union, or obtained by the state as the result of an exchange of Trust Land, or obtained in lieu of originally granted Trust Land, or purchased with trust funds, or obtained through foreclosure of loans using trust funds.

(42) “**Upland**” is land above the line of ordinary high water, or mean high tide line.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560

Stats. Implemented: ORS 274.525 & 274.550

Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0220

Policies and General Provisions

(1) Pursuant to Article VIII, Section 5(2) of the Oregon Constitution, the State Land Board, through the Department, has a constitutional responsibility to manage all Trust and Non-Trust Land under its jurisdiction “with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management.”

(2) The Department will follow the guiding principles and resource-specific management prescriptions contained in the Asset Management Plan, and consider the comments received from federal, state and local governments, Indian Tribes and interested persons when determining whether to authorize or condition a lease or license for the removal or use of material.

(3) All material removed from state-owned submerged and submersible land continues to be owned by the state regardless of whether it is placed on state land or land belonging to another person until such time that:

(a) A written transfer of ownership of the material is issued by the Department as authorized by these rules;

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(b) The parcel, including the material, is sold or exchanged by the Department to another person; or

(c) The material is exempt by law from the provisions of these rules.

(4) All persons wanting to remove or use material must, as required by these rules, either apply for and obtain an authorization from the Department, or notify the Department in writing prior to proceeding with the removal or use.

(5) The Department will not grant a lease or license if it determines that the proposed removal or use of the material:

(a) Is in an area that the Department has closed to this activity;

(b) Would unreasonably impact uses or developments proposed for, or already in place within the requested area. Such a determination will be made by the Department after consulting with holders of leases, licenses, permits and easements granted by the Department in the requested area, and other interested persons;

(c) Will be conducted in a manner that:

(A) Does not conserve fish and wildlife habitat;

(B) Does not protect water quality; or

(C) Contributes to soil erosion or the introduction or spread of noxious weeds or pests;

(d) Will significantly impact the rights of the public to use a waterway for fishing, recreation, navigation and commerce;

(e) Does not conform with local (including local comprehensive land use planning and zoning ordinance requirements), state and federal laws; or

(f) Will not be in the best interests of the State of Oregon.

(6) If an application to remove or use material is in an area where the amount of material that can be removed is limited by law (for example, in Essential Indigenous Anadromous Salmonid Habitat or a State Scenic Waterway), the Department will condition the amount of material that can be removed or used based on the statutes and administrative rules governing this activity in these areas.

(7) To the extent required by law, the Department shall honor the terms and conditions of any existing valid authorization for the removal or use of material including any that entitle the holder to renew the authorization.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560
Stats. Implemented: ORS 274.525 & 274.550
Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0230

Forms of Authorization Offered by the Department for the Removal or Use of Material

(1) Two forms of authorization are available from the Department for the removal or use of material: a lease or a license. The Department will determine not only if it will issue an authorization, but also the form of that authorization.

(2) The specific form of authorization offered by the Department will depend on the term and nature of the removal or use requested by the applicant.

(3) A lease will be the only form of authorization available from the Department if the applicant wants an exclusive right to remove or use material from a specific area for a term not to exceed 10 years.

(4) A license will be the only form of authorization available from the Department if the applicant wants a non-exclusive authorization to remove or use material for less than three years.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560
Stats. Implemented: ORS 274.525 & 274.550
Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0240

Application Requirements for Removal of Material

(1) Except as provided in OAR 141-014-0240(4), any person wanting to remove material must:

(a) Apply in writing to the Department for a lease or license using a form provided by the Department; and

(b) Submit:

(A) A fully completed application form providing all required information;

(B) An operating plan for the removal or use of material;

(C) Evidence satisfactory to the Department that the proposed removal or use is in conformance with the local comprehensive land use plan and zoning ordinances; and

(D) A non-refundable application processing fee payable to the Department to cover the administrative costs of processing the application and issuing the authorization.

(2) The application processing fee for a lease or license is \$750;

(3) Unless otherwise allowed by the Director, a fully completed application for a lease or license and other items listed in OAR 141-014-0240(1)(b) must be submitted to the Department at least 90 calendar days prior to the proposed removal of material.

(4) Any person may remove up to 50 cubic yards of material (or the equivalent weight in short tons) from state-owned submerged and submersible land per calendar year for that person's own exclusive non-commercial use without payment of an application processing fee or compensation to the Department. However, no such removal is authorized unless the person:

(a) Gives written notification to the Department at least 30 calendar days prior to removing the material; and

(b) Obtains any other authorizations required by the Department (such as a Removal-Fill Permit) and other applicable local, state, and federal governing bodies to undertake the removal.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560
Stats. Implemented: ORS 274.525 & 274.550
Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0250

Lease or License Application Review and Approval Process

(1) Upon receipt of an application for a lease or license, the Department will determine:

(a) If the application is complete;

(b) If the subject area is available for the requested removal;

(c) If, under these rules, a lease or license is the required form of authorization; and

(d) If additional information is required concerning the:

(A) Proposed use of the state land; and

(B) Applicant's financial status, or past business and management practices, or both.

(2) The Department will then advise the applicant of its determination concerning each of the four factors in OAR 141-014-0250(1). Applications determined by the Department to be incomplete, or for an area in which the use would be incompatible, will be returned to the applicant with a written explanation of the reason(s) for rejection.

(3) If an application rejected for incompleteness is resubmitted within 120 calendar days from the date the Department returned it to the applicant (as determined by the date of letter from the Department accompanying the rejected application) with all deficiencies noted by the Department corrected, no additional application processing fee will be assessed.

(4) Upon acceptance by the Department, the application for a lease or license will be circulated to various local, state and federal agencies and other interested persons including tribal governments, adjacent property holders, affected lessees and permittees, and easement holders for review and comment. As a part of this review, the Department will specifically request comments concerning:

(a) The presence of state or federal listed threatened and endangered species (including candidate species), and archaeological and historic resources within the requested area that may be disturbed by the proposed use;

(b) Conformance of the proposed use with local, state, and federal laws and rules;

(c) Conformance of the proposed use with the local comprehensive land use plan and zoning ordinances;

(d) Conformance with the policies described in OAR 141-014-0220 of these rules; and

(e) Potential conflicts of the proposed use with existing or proposed uses of the requested area.

(5) After receipt of comments concerning the proposed use, the Department will advise the applicant in writing:

(a) If changes in the use or the requested lease or license area are necessary to respond to the comments received;

(b) If additional information is required from the applicant, including but not limited to a survey of:

(A) State or federal listed threatened and endangered species (including candidate species) within the requested area; and

(B) Archaeological and historic resources within the requested area.

(c) If the area requested for the lease or license will be authorized by the Department for use by the applicant through a lease or license; and

(d) Whether the subject area will be made available to the public through competitive bidding pursuant to OAR 141-014-0290. Only requests for leases may be subject to competitive bidding. A license is not subject to competitive bid.

(6) If the Department determines that the proposed removal or use of material meets the policies set forth in these rules, the Department will determine the limits of the area that it wants to make available for the proposed activity.

(7) The Department reserves the right to request that an applicant conduct at their expense a survey of the requested area by a licensed professional engineer or surveyor to establish the limits of the area from which it will allow the removal or use of material. The Department will provide survey instructions as well as specify the information required in the survey and accompanying notes.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560

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Stats. Implemented: ORS 274.525 & 274.550
Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0260

Process for Offering a License for the Removal or Use of Material Either From State-owned Submerged and Submersible Land or that is Placed on an Upland Site (Dredged Material)

(1) If, after completing the processes provided in OAR 141-014-0240(1) through (3) and 141-014-0250(1) through (5), the Department decides to offer a license for the removal of material from either state-owned submerged and submersible land, or for the removal of material that is located on upland (dredged material), the Department will:

(a) Notify the applicant in writing of the amount of compensation pursuant to OAR 141-014-0330 that the applicant must remit to the Department to obtain the authorization, and of any insurance and surety bond required by the Department pursuant to the requirements of OAR 141-014-0370; and

(b) Include with the notification a draft copy of the license.

(2) The amount of compensation that must be paid by the licensee as stipulated in the terms and conditions of the license will be:

(a) Based on the amount actually removed or used multiplied by the compensation rate in effect at the time of removal.

(b) Subject to annual adjustments by the Department pursuant to OAR 141-014-0330.

(3) The Department reserves the right to withdraw an area requested for a license at any time prior to issuance of the license.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560

Stats. Implemented: ORS 274.525 & 274.550

Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0270

Process for Offering a Lease for the Removal or Use of Material From State-Owned Submerged and Submersible Land

If, after completing the processes provided in OAR 141-014-0240(1) through (3) and 141-014-0250(1) through (5), the Department decides to offer a lease for the removal of material from state-owned submerged and submersible land, the Department will, pursuant to the requirements of ORS 274.040, offer a preference right to lease to the eligible party as defined in OAR 141-014-0210(30) and (31), hereafter referred to as the preference right holder. The Department will take the following steps to offer this preference right.

(1) If the proposed lease area consists of a single parcel, or two or more contiguous parcels owned by the same person, the Department will extend the boundaries of the single parcel or combined group of single-ownership parcels perpendicular to the thread of the stream creating a single lease parcel that fronts and abuts the upland ownership.

(2) If the proposed lease area consists of parcels having different owners, the Department will subdivide the requested lease area into smaller parcels by extending lines perpendicular to the thread of the stream from the boundaries of, or within the boundaries of the adjacent riparian tax lot so that there is a separate lease parcel for each parcel of property that fronts and abuts the lease area.

(3) In accordance with the proposed use(s), the Department will calculate in a manner consistent with OAR 141-014-0320 and 141-014-0330 a minimum annual compensatory payment for each lease parcel. The minimum bid or compensation amount shall be established by the Department based on the:

(a) Compensation rate in effect at the time that the application is received by the Department; and

(b) The amount of material that the applicant states on their application they intend to remove or use each year for the term of the lease requested.

(4) The Department will notify each preference right holder in writing that a lease application has been approved by the Department and provide 30 calendar days from the date on the letter of notification for the preference right holder to exercise their preference right to take the lease at the established minimum annual compensatory payment.

(5) If the preference right holder has accepted the offer of a preference right to lease and has executed the lease form and all other documents and remitted the required minimum annual lease rental payment within the required 30 calendar day period, the Department will execute the lease.

(6) If the preference right holder does not exercise the preference right to take a lease applied for by another person, the Department will prepare and publish an advertisement for bids pursuant to ORS 274.040 and hold a public auction pursuant to OAR 141-014-0290. The highest qualified bidder will be awarded the lease. The minimum bid amount will be set by the Department.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560

Stats. Implemented: ORS 274.525 & 274.550

Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0280

Process for Offering a Lease for the Removal or Use of Material that Has Been Placed on an Upland Site (Dredged material)

(1) A preference right to lease is not available to the owner of land underlying or adjacent to dredged material that has been deposited on an upland site.

(2) If after completing the processes provided in OAR 141-014-0240(1) through (3) and 141-014-0250(1) through (5), an application is for a lease to remove or use material placed on an upland site, the Department will determine if it wants to offer the requested material or site through a public auction.

(3) If the Department decides to make the requested area available at public auction, it will prepare and publish an advertisement for bids. The minimum bid or compensation amount will be established by the Department based on the:

(a) Compensation rate in effect at the time that the application is received by the Department; and

(b) The amount of material that the applicant states on their application they intend to remove or use each year for the term of the lease requested.

(4) The highest qualified bidder shall be awarded the lease.

(5) If the Department decides to not offer the lease for the requested area through public auction, it will issue the lease to the applicant.

(6) The compensation established by the Department that must be paid to the Department is subject to annual adjustments by the Department pursuant to the provisions of OAR 141-014-0330.

(7) The Department reserves the right to withdraw an area requested for a lease at any time prior to issuance of the lease.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560

Stats. Implemented: ORS 274.525 & 274.550

Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-125-0290

Competitive Bidding Process

(1) The Department will give Notice of Parcel Availability and provide an opportunity for applications to be submitted if the Department:

(a) Is required to offer all or part of the subject area for competitive bid because the preference right holder did not exercise their preference right to take a lease; or

(b) Decides to offer material and parcels containing material for which no application has been received.

(2) The Notice of Parcel Availability will state:

(a) The location and size of the subject area;

(b) The use approved by the Department for the subject area;

(c) The type of auction and minimum acceptable bid amount;

(d) What developments, if any, on the subject area the applicant must purchase from the existing lessee, and a general estimate of the present value of said developments as determined by the Department; and

(e) The deadline for submitting a completed application to the Department.

(3) The Notice of Parcel Availability will be:

(a) Published at the applicant's or, if more than one applicant, applicants' expense, with the cost being divided equally among the applicants, not less than once each week for two successive weeks in a newspaper of general circulation in the county or counties in which the subject parcel is located;

(b) Posted on the Department's internet web site; and

(c) Sent to persons indicating an interest in the subject parcel.

(4) The highest qualified bidder will be awarded the lease at auction subject to satisfaction of the requirements of OAR 141-014-0350(4) and (15) of these rules. However, the Department will have the right to reject any and all bids submitted.

(5) The Department may offer material and parcels containing material for which no application has been received to the public through a competitive bidding process. If so, the Department will follow the competitive bidding process provided in OAR 141-125-0280(3) and 141-125-0290(1) through (4) and be responsible for the expenses of publishing the required notices.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560

Stats. Implemented: ORS 274.525 & 274.550

Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0300

Measurement Determination

(1) The Department may at its discretion allow an applicant, lessee or licensee who is unable to measure and report the amount of material removed or used in cubic yards to measure and report the quantity in short tons. However, the Department:

(a) Will only allow an applicant, lessee or licensee to report removal and use of material in short tons if they develop, at their own expense, a short ton-to-cubic yard conversion factor based on tests of the material;

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(b) Reserves the right to accept or reject the short ton-to-cubic yard conversion factor; and

(c) May at any time during the term of the lease or license require the lessee or licensee to re-establish, at their own expense, the validity of the conversion factor.

(2) If it is determined by the lessee, licensee or the Department that the short ton-to-cubic yard conversion factor in use is not valid, modification of the compensation owed will be prospective only.

(3) Any changes made to the short ton-to-cubic yard conversion factor used in a lease or license will be made by written addendum to that lease or license.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560
Stats. Implemented: ORS 274.525 & 274.550
Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0310

Activities Subject to Payment of Compensation

(1) Unless otherwise specifically exempted by OAR 141-014-0320, all material removed or used is subject to payment of compensation to the Department.

(2) Compensation will be paid and is owed to the Department if the material is:

(a) Removed by any person directly from state-owned submerged and submersible land and subsequently:

(A) Bought by that person;

(B) Sold by that person; or

(C) Exchanged by that person in any manner for goods or services which otherwise would have to be acquired from other sources;

(b) Sold, used or exchanged as an article of commerce by any person; or

(c) Removed without notifying or applying, or both notifying and applying to the Department in writing within the required time period stipulated in OAR 141-014-0320(2)(b).

(3) Compensation will be paid to the Department for the removal or use of material that loses its exemption for the reasons given in OAR 141-014-0320(6).

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560
Stats. Implemented: ORS 274.525 & 274.550
Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0320

Compensation Exempt Activities

(1) Numerous exemptions to the payment of compensation to the Department are provided in ORS 274.550.

(2) Compensation is not owed to the Department if:

(a) The material is removed or used for a public purpose, and

(b) The Department is notified in writing of the proposed removal, use or disposal for a public purpose at least 30 days prior to when the removal, use or disposal will begin.

(3) The exemption provided in OAR 141-014-0320(2) exists regardless of when the material is removed or used for a public purpose (even if it is taken from the place first deposited) as long as the notification requirements are met.

(4) A public purpose occurs when the material is:

(a) Removed for channel or harbor improvement or flood control;

(b) Used to fill, dike or reclaim land owned by the state or a political subdivision if that land is located not more than two miles from the bank of the waterway from which the material was removed;

(c) Used to create, maintain or enhance fish or wildlife habitat;

(d) Used to maintain public beaches;

(e) Removed because it is determined to be contaminated with a hazardous material (as defined in ORS 466.605);

(f) Used by a state agency or political subdivision to fill any portion of a waterway up to an elevation of one foot above the line of ordinary high water of that waterway;

(g) Used solely for a public purpose by a political subdivision; or

(h) Otherwise exempt from payment of compensation by state law.

(5) In addition, any person may remove up to 50 cubic yards of material (or the equivalent weight in short tons) per calendar year for that person's own exclusive non-commercial use without payment of compensation to the Department. However, no such removal is authorized unless the person:

(a) Gives written notification to the Department at least 30 calendar days prior to removing the material; and

(b) Obtains any other authorizations required by the Department (such as a Removal-Fill Permit) and other applicable local, state, and federal governing bodies to undertake the removal.

(6) Except in the case of material determined to be contaminated, these exemptions no longer apply and compensation is owed and must be paid to the Department if the material is:

(a) Removed from the place first deposited after removal from state-owned submerged and submersible land and not used for a public purpose;

(b) Sold or used as an article of commerce; or

(c) Removed without notifying or applying, or both notifying and applying to the Department in writing within the required time periods stipulated in OAR 141-014-0320(2b) and (5a).

(7) Although material may be exempt from payment of compensation to the Department, any person wanting to remove or use material must apply for and receive an authorization from the Department pursuant to these rules prior to such removal or use.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560

Stats. Implemented: ORS 274.525 & 274.550

Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0330

Compensation

(1) Each lessee or licensee must pay compensation to the Department in an amount based on quantity of material actually removed or used during that reporting period multiplied by the compensation rate in effect at the time of the removal or use.

(2) The Department will establish for each lease and license the basis for which payment of compensation shall be calculated and paid, as well as the reporting period.

(3) Each lessee and licensee must on a monthly basis or as otherwise required as a term and condition of the lease or license:

(a) Report to the Department the amount of material removed or used; and

(b) Calculate and submit to the Department the amount of compensation owed to the Department as provided in the lease or license.

(4) Unless otherwise agreed to in writing by both the Department and the lessee or licensee:

(a) Compensation must be paid on the basis of the reporting period determined by the Department and provided as a term of the authorization;

(b) Compensation payments and removal reports must be received by the Department no later than the 20th calendar day after the end of the reporting period during which the material was removed or used; and

(c) Removal reports must be submitted to the Department every period, including those reporting periods in which no material was removed or used, or compensation paid.

(5) Compensation not paid by the due date will accrue interest at the maximum rate allowed by law from the first day of the reporting period following the end of the reporting period during which the material was removed or used.

(6) The compensation to be paid by a lessee or licensee to the Department for material removed or used under a lease or license for calendar year 2008 shall be:

(a) \$0.63 per cubic yard for material removed from state-owned submerged and submersible land; and

(b) \$0.71 per cubic yard for state-owned dredged material that has been placed on either land controlled by the Department or land belonging to another person.

(7) All sand and gravel leases or licenses in effect at the time the compensation rates indicated in OAR 141-014-0330(6) are adopted will be subject to the new rates upon renewal or redetermination as specified in the lease or license agreement.

(8) The minimum compensation rates indicated in OAR 141-014-0330(6) will be adjusted every calendar year based on the annual changes in the United States Department of Labor's Producer Price Index (Industry Code #1442) for Construction Sand and Gravel.

(9) Any increase or decrease resulting from application of the United States Department of Labor's Producer Price Index (#1442) for Construction Sand and Gravel (or any other index selected by the Department) will be limited to a maximum of 5% per year. Compensation rates will not be adjusted below those rates established in OAR 141-014-0330(6).

(10) Should the United States Department of Labor's Bureau of Labor Statistics discontinue publishing this index, the Department will select another index to use.

(11) Pursuant to ORS 274.590, the Department may cooperate with, and enter into agreements with officials of the State of Washington concerning the contracting for, receipt and collection of compensation for material removed or used from the state-owned submerged and submersible land underlying the Columbia River. Consequently, notwithstanding the provisions of OAR 141-014-0330(6) through (10) of these rules, the Department may establish a compensation rate for material removed or used from Oregon's state-owned submerged and submersible land underlying the Columbia River that is equal to the compensation established by the State of Washington for the removal of rock, sand, gravel and silt derived from that state's submerged and submersible land underlying the Columbia River.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560

ADMINISTRATIVE RULES

Stats. Implemented: ORS 274.525 & 274.550
Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0340

Lease and License Modifications

(1) A lessee or licensee must submit a new application to the Department if they want to:

(a) Enlarge the area they are authorized to use under their lease or license;

(b) Increase the amount of material they want to remove; or

(c) Make substantial changes to the operating plan as determined by the Department.

(2) The Department may amend a lease or license upon receipt of a written request by a lessee or licensee to reduce the authorized area if a portion of it is not used for the removal or sale of material.

(3) Requests to enlarge the size of an authorized area, increase the amount of material removed, or change the methods used to remove or process material will be processed and reviewed in the same manner as a new lease or license application as provided in these rules.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560

Stats. Implemented: ORS 274.525 & 274.550

Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0350

General Lease and License Conditions

(1) All leases are exclusive and will only be offered through a competitive bid auction procedure except when:

(a) The applicant is the preference right holder of the area for which an application is received;

(b) A preference right holder accepts an offer by the Department to enter into a lease for the state-owned submerged and submersible land fronting their upland; or

(c) The Director determines that the best interests of the Department and the policies provided in OAR 141-014-0220 are served by offering the lease to the applicant.

(2) The Department reserves the right to modify the terms and conditions of its standard lease or license if, in the judgment of the Department and concurrence of the Department of Justice, such changes are required given the size and nature of the proposed removal, use or sale of material or the risks associated therewith.

(3) The maximum term for a lease will be 10 calendar years; licenses will be issued for a term of less than three calendar years.

(4) A lease or license issued by the Department must be on a form supplied by the Department that has been approved by the Department of Justice for legal sufficiency pursuant to ORS 291.045 to 291.047 (Public Contract Approval).

(5) Each lessee and licensee must maintain and make available for audit by the Department adequate records and accounts which accurately reflect the amount of material removed or used from the authorized area.

(6) State-owned submerged and submersible land, regardless of whether it is included in an authorized area, must remain available and open to the public for commerce, navigation, fishing and recreation unless restricted or closed to public entry by the State Land Board. A lessee or licensee may request the Department to close the authorized area to public entry or restrict recreational use by the public on all or portions of the authorized area to protect persons or property from harm arising from, or in connection with the removal or use of material.

(7) A lessee or licensee may restrict public use of lessee or licensee-owned property or structures within the authorized area.

(8) The Department or its authorized representative(s) will have the right to enter into and upon the authorized area at any time for the purposes of inspection or management.

(9) A lessee or licensee must dispose of all waste in a proper manner and shall not permit waste, debris, garbage or other refuse to either accumulate within the authorized area or be discharged into the waterway unless so authorized by the Department of Environmental Quality. A lessee's or licensee's failure to comply with this provision will be considered a material default of the lease or license.

(10) Except as authorized by the lease or license, a lessee or licensee must not cut, destroy or remove, or permit to be cut, destroyed or removed any vegetation (except for noxious weeds) that may be upon the authorized area without the prior written authorization of the Department. The lessee or licensee will promptly report to the Department the cutting or removal of vegetation by other persons.

(11) A lessee or licensee must, in accordance with the terms and conditions of their lease or license, conduct all operations within the authorized area in a manner that conserves fish and wildlife habitat, protects water quality, and does not contribute to insect or animal infestation, soil erosion or the growth of noxious weeds.

(12) A lessee or licensee must maintain all buildings; removal, processing and sales-related machinery and equipment; docks; and similar

structures and improvements located within the authorized area in a good state of repair and workmanlike manner as determined by the Department.

(13) The Department may require that an applicant for a lease or license to remove or use material present evidence to the Department prior to removal or use of any material that they have obtained:

(a) All authorizations required by the applicable local, state, and federal governing bodies to undertake the removal or use of the material;

(b) Any authorization that may be required to obtain access or to cross land belonging to a person other than the Department to remove or use state-owned dredged material placed on that land; and

(c) A surety bond or comprehensive or commercial general liability insurance, or both, in an amount required by the Department.

(14) The holder of a lease or license must indemnify the State of Oregon and the Department of State Lands against any claim or costs arising from or related to a release of a hazardous substance on or from the authorized area.

(15) An authorization issued by the Department will be conditional and not valid until:

(a) The holder has received all other authorizations required by the Department (such as a Removal-Fill Permit pursuant to OAR 141-085-0005 through 141-085-0176) and other local, state, and federal governing bodies to undertake the removal or use of the material; and

(b) The Department has received all fees and compensation specified in these rules, and evidence of any required insurance and surety bond.

(16) An applicant for a lease or license is responsible for obtaining any authorization that may be required to obtain access to, or to cross land belonging to a person other than the Department to remove or use state-owned dredged material placed on that land.

(17) The Department may, at its discretion, deny a lease or license application or lease renewal to remove or use material if the applicant's financial status, and past business and management practices indicate that the applicant may not:

(a) Be able to fully meet the terms and conditions of a lease or license offered by the Department; or

(b) Use the land applied for in a way that meets the provisions of OAR 141-014-0220.

(18) The Department may:

(a) Conduct field inspections to determine if the removal or use of material is authorized by, or conforms with the terms and conditions of a lease or license; and, if not,

(b) Pursue whatever remedies are available under law and OAR 141-014-0410 to ensure that the unauthorized removal or use of material is either ceased or brought into compliance with the requirements of these rules.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560

Stats. Implemented: ORS 274.525 & 274.550

Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0360

Lease and License Renewal

(1) To the extent required by law, the Department shall honor the terms and conditions of any existing valid authorization for the removal or use of material including any that entitle the holder to renew the authorization.

(2) A lessee shall have an option to renew a lease entered into after the effective date of this rule for an additional term of not more than 10 years provided that the lessee has submitted a completed lease renewal application form provided by the Department to the Department not less than 90 calendar days prior to the lease expiration date otherwise allowed by the Director. Upon receipt of such application, the lease will be renewed by the Department unless:

(a) The Department determines, in its sole discretion, that the lessee has not complied with the terms and conditions specified in their lease, the applicable statutes, or Oregon Administrative Rules;

(b) The person who held the preference right to lease at the time the lease subject to renewal was initially offered is no longer the same person, in which case the Department will offer the preference right to lease to the new owner;

(c) The lessee is no longer the preference right holder; or

(d) The Department determines that the renewal of the lease for all or portions of the authorized area would be contrary to local, state, or federal law, or would be inconsistent with the policies set forth in OAR 141-014-0220.

(3) An application for renewal of a lease shall be accompanied by a non-refundable fee in the amount of \$750 payable to the Department.

(4) A license is not renewable. However, a person holding a license that has expired, or is approaching expiration, may apply to the Department for a new license or lease covering the same area authorized in the expiring or expired license in the same manner as provided in OAR 141-014-0240.

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The Department reserves the right to deny granting a new license or lease if:

(a) The Department determines, in its sole discretion, that the licensee has not complied with the terms and conditions specified in their lease, the applicable statutes, or Oregon Administrative Rules; or

(b) The Department determines that the renewal of the license for all or portions of the authorized area would be contrary to local, state, or federal law, or would be inconsistent with the policies set forth in OAR 141-014-0220.

(5) The Department reserves the right to limit the term of a new license to less than the maximum term allowed by these rules.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560
Stats. Implemented: ORS 274.525 & 274.550
Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0370

Insurance and Bond

(1) The Department, in the exercise of its reasonable discretion, may require the holder of a lease or license to remove or use material to obtain insurance in a specified amount if the use or removal, in the opinion of the Department, constitutes a risk to public safety, or to the State of Oregon.

(2) The Department may request that the applicant for, or the holder of a lease or license to remove or use material provide information concerning the use of the area to the Risk Management Division of the Oregon Department of Administrative Services, which may assist the Department in determining the appropriate amount of insurance coverage based on the nature of the use.

(3) The Department may, at its discretion, require that the holder of a special use authorization obtain a surety or bid bond in an amount specified by the Department (or a cash deposit in an amount equal to the surety bond and which names the State of Oregon as co-owner) to ensure that they will perform in accordance with all terms and conditions of the lease or license.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560
Stats. Implemented: ORS 274.525 & 274.550
Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0380

State Land Closures and Use Restrictions

(1) The Department may by itself, or at the request of another person, request Land Board authorization to begin rulemaking to close all or part of a parcel of state land to the removal or use of material.

(2) The Land Board may approve all or a portion of such a request upon a finding that the requested limitation is necessary to prevent unreasonable interference with the public's right to use the waterway for commerce, navigation, fishing and recreation; or to carry out the policies set out in these rules at OAR 141-014-0220; or to ensure compliance with any endangered species management or recovery plan adopted by the Department under the Oregon Endangered Species Act (ORS 496.171 to 496.192).

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560
Stats. Implemented: ORS 274.525 & 274.550
Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0390

Termination of a Lease or License For Default

(1) If the holder of a lease or license to remove or use material fails to comply with these rules or the terms and conditions of the authorization, or otherwise violates laws governing their removal or use of material or the authorized area, the Department will notify the holder of the authorization in writing of the default and demand correction within a specified time frame.

(2) If the holder of a lease or license to remove or use material fails to correct the default within the time frame specified, the Department may:

(a) Modify or terminate the lease or license; and

(b) Request the Attorney General to take appropriate legal action against the holder of the lease or license.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560
Stats. Implemented: ORS 274.525 & 274.550
Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0400

Assignment of Leases and Licenses; Subleasing

(1) Except as authorized in the lease or these rules, in no event will the lessee sublease or assign, or licensee assign any portion of the authorized area prior to receipt of written approval from the Department. Violation of this provision may be grounds for termination of the lease or license.

(2) A lessee must apply in writing on a form provided by the Department to the Department for a sublease or an assignment.

(3) Licensees may only apply to the Department for an assignment.

(4) Lessees desiring to sublease or assign a lease, or licensees desiring to assign a license in a manner not permitted outright by the lease, license or these rules must:

(a) Apply to the Department on a form provided by the Department; and

(b) Submit a non-refundable application processing fee of \$750 payable to the Department of State Lands.

(5) If the application is incomplete, the Department will return the application to the applicant with a written explanation of the reason(s) for rejection.

(6) If an application is rejected by the Department for incompleteness or some other reason, the applicant may resubmit it to the Department within 120 calendar days from the date of the letter of written explanation sent by the Department with no additional application fee due.

(7) Sublessees and assignees must meet all applicable requirements set forth in these rules and the lease or license.

(8) The transfer of ownership of the lease or license caused by the death of the lessee or licensee will be considered an assignment requiring the Department's approval. A transfer of ownership to a spouse or immediate family member is an assignment that does not require the Department's prior approval.

(9) A lessee or licensee may not grant a mortgage or security interest in the lease or license without the prior written consent of the Department which shall not be unreasonably withheld. Any subsequent assignment by the creditor will require the prior written approval of the Department.

(10) The Department may request additional information on the sublessee's or assignee's financial status, or past business and management practices, or both. The Department may, at its discretion, deny the assignment request if the assignee's financial status, or past business and management practices, or both, indicate that they may not be able to fully meet the terms and conditions of a lease offered by the Department.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560
Stats. Implemented: ORS 274.525 & 274.550
Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0410

Enforcement Actions; Civil Penalties and Other Remedies

(1) Upon the Director's own initiative, or in response to a complaint, the Director may investigate a suspected violation of a lease, license or other authorization to use or remove material, or the alleged unauthorized use of state land and removal of material, to determine if the use or removal of material conforms with the terms and conditions of a lease, license or other authorization, or to determine if the use or removal of material is not authorized.

(2) In conducting the inspection relative to suspected or alleged violations of a lease, license or other authorization issued by the Director, the Director, or the Director's agent, may enter onto private property of the holder of the authorization in order to determine if a violation has occurred.

(3) Upon a determination that a violation of the lease, license or other authorization has occurred or that an unauthorized use of, or removal of material from state land has occurred, the Director may exercise the remedies set forth in the lease, license or other material use or removal authorization, any other remedies available at law, or impose civil penalties consistent with OAR 141-014-0410(4) and (5), below.

(4) ORS 273.241 provides that the removal or use of material from any property of the State of Oregon under the control of the Department by any person without an authorization constitutes a trespass for which the state, in addition to any action commenced under ORS 273.990, may also commence an action for damages. If damages are assessed against the defendant in any such action, the state will be awarded double the amount of damages assessed if the trespass is willful.

(5) The unauthorized use or removal of material from state-owned submerged and submersible land or a violation of a lease, license or other authorization granted under these rules authorizing the use of, or removal of material from state-owned submerged and submersible land are a violation of ORS 274.040 and OAR 141-082. In addition to any other penalty or sanction provided by law, the Director may assess a civil penalty pursuant to ORS 274.992, 274.994, and OAR 141-082-0130 for the unauthorized use of state-owned submerged and submersible land, or for the violation of a special use authorization granted under these rules authorizing the use of state-owned submerged and submersible land.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560
Stats. Implemented: ORS 274.525 & 274.550
Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

141-014-0420

Reconsideration of Decision

(1) An applicant for a lease or license to remove or use material, or any other person adversely affected by the issuance or denial of lease or license to remove or use material may request that the Director or the Land

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Board, depending upon which entity made the decision, reconsider the decision:

(a) Such a request must be received by the Director no later than 30 calendar days after the date of delivery of the decision.

(b) The Director will review the request within 60 calendar days after the date of delivery of the request.

(c) If the Director made the decision of concern, s/he may affirm the decision, issue a new or modified decision, or request the applicant to submit additional information to support the appeal.

(d) If the decision was made by the Land Board, the Director may recommend to the Land Board either that the lease or license issuance or denial be affirmed based on the merits of the request, or that the Land Board authorize initiation of a contested case proceeding.

(2) If the Director recommends initiating a contested case proceeding, the Department will select a hearing officer and proceed pursuant to ORS 183.413 through 183.470.

Stat. Auth.: ORS 273.551, 274.525, 274.530, 274.550 & 274.560

Stats. Implemented: ORS 274.525 & 274.550

Hist.: DSL 2-2008, f. & cert. ef. 10-15-08

Rule Caption: Amending the administrative rules for authorizing special uses on state-owned Trust and Non-Trust Land.

Adm. Order No.: DSL 3-2008

Filed with Sec. of State: 10-15-2008

Certified to be Effective: 10-15-08

Notice Publication Date: 4-1-2008

Rules Adopted: 141-125-0205

Rules Amended: 141-125-0100, 141-125-0110, 141-125-0120, 141-125-0130, 141-125-0140, 141-125-0150, 141-125-0160, 141-125-0170, 141-125-0180, 141-125-0190, 141-125-0200, 141-125-0210, 141-125-0220

Subject: These rules apply to the management of state-owned Trust and Non-Trust Land for special uses. They also establish a process for authorizing such uses through the granting of leases, licenses and short term access authorizations. They do not apply to the granting of proprietary authorizations for uses specifically governed by other Department administrative rules. Special uses include; industrial, business, commercial and residential purposes; native seed harvesting; scientific experiments and demonstration projects, conventions, sporting and other events; commercial outfitting and guiding services; motion picture filming and set construction; renewable energy projects; removal of semiprecious stones, petrified wood and fossils for commercial purposes; parking lots; materials and equipment storage; warehouses; marine services and repair facilities on state-owned upland; resorts and recreational facilities; golf courses; geological investigations; liquified nature gas receiving plants; grazing on land other than that designated as rangeland; removal of juniper and other trees, plants for biomass for commercial use; and removal of sunken logs, woody debris and abandoned pilings for their commercial value.

Rules Coordinator: Elizabeth Martino—(503) 986-5239

141-125-0100

Purpose And Applicability

(1) These rules:

(a) Apply to the management of state-owned Trust and Non-Trust Land for special uses.

(b) Establish a process for authorizing such uses through the granting of leases, licenses and, short-term access authorizations (hereafter collectively referred to as a special use authorization).

(c) Do not apply to the granting of proprietary authorizations for uses specifically governed by other Department administrative rules.

(2) A special use is one not governed by other Department administrative rules. Special uses include, but are not limited to, using state-owned land (including historically filled land) for:

(a) Agriculture;

(b) Communications facilities;

(c) Industrial, business, commercial and residential purposes;

(d) Native seed harvesting;

(e) Scientific experiments and demonstration projects;

(f) Conventions, sporting and other events;

(g) Recreational cabins;

(h) Commercial outfitting and guiding services;

(i) Motion picture filming and set construction;

(j) Renewable energy projects including, but not limited to wind turbines and wind farms, solar energy installations and biomass generating facilities;

(k) Removal of semiprecious stones, petrified wood and fossils for commercial purposes;

(l) Parking lots;

(m) Materials and equipment storage;

(n) Warehouses;

(o) Marine service and repair facilities on state-owned upland;

(p) Resorts and recreational facilities;

(q) Golf courses;

(r) Upland quarries;

(s) Geological investigations;

(t) Liquified natural gas receiving plants;

(u) Grazing on land other than that designated as rangeland;

(v) Removal of juniper and other trees, plants or biomass for commercial use; and

(w) Removal of sunken logs, woody debris and abandoned pilings for their commercial value.

(3) The Director may determine other uses and developments similar to those specified in OAR 141-125-0100(2) that are also subject to a special use authorization and these rules.

Stat. Auth.: ORS 273

Stats. Implemented: OR Const. Art. VIII, Sec. 2 & 5

Hist.: DSL 1-2002, f. 2-7-02, cert. ef. 3-1-02; DSL 3-2008, f. & cert. ef. 10-15-08

141-125-0110

Policies

(1) Pursuant to Article VIII, Section 5(2) of the Oregon Constitution, the State Land Board, through the Department, has a constitutional responsibility to manage all land (Trust and Non-Trust) under its jurisdiction "with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management."

(2) All Trust Land will be managed in accordance with the need to maximize long-term financial benefit to the Common School Fund.

(3) The Department will follow the guiding principles and resource-specific management prescriptions contained in the Asset Management Plan, and consider the comments received from federal, state, and local governments and interested persons when determining whether to authorize or condition a special use authorization on state-owned land.

(4) The use of state-owned land for the placement of communications facilities is recognized by the Department as a conditionally allowable use of that land, subject to and consistent with the requirements and provisions of the Telecommunications Act of 1996 and other applicable federal, state, and local laws.

(5) Each individual use of, or development placed on state-owned land will constitute a separate discrete activity subject to payment of compensation as required by these or other applicable Department rules, or as determined by the Director.

(6) Uses of, and developments placed in, on or over state-owned land pursuant to a special use authorization will conform with local (including comprehensive land use planning and zoning ordinance requirements), state, and federal laws.

(7) The Department will not grant a special use authorization if it determines that the proposed use or development would unreasonably impact uses or developments proposed or already in place within the requested area. Such a determination will be made by the Department after consulting with holders of leases, licenses, permits and easements granted by the Department in the requested area, and other interested persons.

(8) All uses subject to these rules must be authorized by a special use authorization issued by the Department. Authorization to occupy state-owned land cannot be obtained by adverse possession regardless of the length of time the use or development has been in existence.

(9) The Department may:

(a) Conduct field inspections to determine if uses of, and developments in, on or over state-owned land are authorized by, or conform with the terms and conditions of a special use authorization and, if not,

(b) Pursue whatever remedies are available under law to ensure that the unauthorized uses subject to a special use authorization are either brought into compliance with the requirements of these rules or removed.

(10) The Department will honor the terms and conditions of any existing valid lease or license for a special use granted by the Department including any that entitle the lessee or licensee to renewal if the holder of the authorization has complied with all terms and conditions of the authorization and applies to the Department for a renewal as prescribed in these rules.

(11) Holders of a license to conduct a demonstration project for a land-based (that is, not on state-owned submerged and submersible land)

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wind farm or solar energy installation will be given the first right to apply for a lease for the area authorized under the license.

(12) The Department may, at its discretion, deny a special use authorization if the applicant's financial status or past business practices, or both, indicate that the applicant may not:

(a) Be able to fully meet the terms and conditions of a special use authorization offered by the Department; or

(b) Use the land applied for in a way that meets the provisions of OAR 141-125-0110.

(13) Notwithstanding the provisions of ORS 274.885, the Department will not allow or authorize the removal of kelp or other seaweed for commercial purposes.

(14) Notwithstanding the provisions of these rules, the Department may:

(a) Initiate projects involving special uses of, or developments in, on or over the land it manages by itself or in conjunction with other persons;

(b) Request proposals for special uses of, or developments on land it manages and select and award a lease through a competitive bid process to develop the use(s) or development(s) based on the policies provided in OAR 141-125-0110; and

(c) Negotiate and accept compensation in the form of services in lieu of monetary payments provided for in these rules.

Stat. Auth.: ORS 273

Stats. Implemented: OR Const. Art. VIII, Sec. 2 & 5

Hist.: DSL 1-2002, f. 2-7-02, cert. ef. 3-1-02; DSL 3-2008, f. & cert. ef. 10-15-08

141-125-0120

Definitions

(1) "Agriculture" means the cultivation of land to grow crops or the raising of livestock.

(2) "Applicant" is any person applying for a special use authorization.

(3) "Appraised Value" means an estimate of the current fair market value of property derived by disinterested persons of suitable qualifications, for example, a licensed independent appraiser.

(4) "Asset Management Plan" is the plan adopted by the State Land Board that provides the policy direction and management principles to guide both the short and long term management by the Department of State Lands of the Common School Fund's real estate assets.

(5) "Authorized" is the area of state-owned land defined in the special use authorization for which a use is authorized.

(6) "Biomass" refers to renewable organic matter such as agricultural crops and residue, wood and wood waste, animal and human waste, aquatic plants and organic components of municipal and industrial wastes.

(7) "Biomass Generating Facility" includes, but is not limited to the furnaces, boilers, combustors, digesters, gasifiers, turbine systems and other related equipment used to produce electricity, steam, heat, or biofuel from biomass.

(8) "Commercial" means a use that results in or is associated with any monetary consideration or gain.

(9) "Commercial Electrical Energy Generating Installation"

(a) Is any electrical energy generating facility:

(A) Operated as a commercial venture (as contrasted to being operated as a demonstration project);

(B) Connected to the regional power grid and used to meet local or regional demand for electricity; or

(C) Used to meet all or part of the electricity demand by a person who may otherwise have to purchase the electricity produced by the facility from another source.

(b) Does not include any solar, wind or hydroelectric devices operated by a person who uses them to generate electricity for their home and who sells excess self-generated electricity back to a utility under a net metering agreement.

(10) "Communications Facility" consists of the towers, antennas, dishes, buildings and associated equipment used to transmit or receive radio, microwave, wireless communications, and other electronic signals. The roads, pipes, conduits, and fiber optic, electrical, and other cables that cross state-owned land to serve a communications facility, however, are governed by the administrative rules for granting easements on state-owned land.

(11) "Comparative compensatory payment" is the amount of money paid to the owners of parcels that are similar to the state-owned land requested by an applicant for a use that is the same as, or similar to that requested by an applicant. When the applicant's requested use is in, on or over Trust Land, the comparative compensatory payment is the maximum amount of money private landowners receive for the same or similar uses in, on or over parcels that they own that are similar to the Trust Land requested by the applicant.

(12) "Compensation" or "Compensatory Payment" is the amount of money paid for a special use authorization to the Department for the use of Department-managed land.

(13) "Construction Period" as applied to wind and solar energy projects is the time during which construction of the commercial electrical energy generating installation is underway.

(14) "Cropshare" is a method of determining the compensation to be paid by a lessee for the use of state-owned land for agricultural purposes in which the owner of the land receives a pre-agreed percentage of the value of the crop at the time it is harvested or sold.

(15) "Demonstration Project" is a limited duration activity of less than three years designed primarily to investigate or test the economic and technological viability of a concept or use of state-owned land under a license granted by the Department.

(16) "Department" means the Department of State Lands.

(17) "Development" is any structure (for example, a communications or cellular tower, shed or barn, fence, irrigation system, wind turbine, solar mirror or recreational cabin) authorized by the Department on an area of state-owned land managed by the Department.

(18) "Director" means the Director of the Department of State Lands or designee.

(19) "Historically Filled Lands" means those lands protruding above the line of ordinary high water, whether or not connected with the adjoining or opposite upland or riparian land on the same side of the body of water, which have been created prior to May 28, 1963 upon state-owned submerged and submersible land by artificial fill or deposit, and not including bridges, wharves and similar structures constructed upon state-owned submerged and submersible land by other than artificial fill or deposit.

(20) "Industrial, Business and Commercial Purpose" are uses of state-owned land not governed by other Department administrative rules. Such uses include, but are not limited to office buildings, manufacturing facilities, retail stores, outfitting and guide facilities and restaurants.

(21) "Lease" is a written authorization issued by the Department to a person to use a specific area of state-owned land for a special use under specific terms and conditions. The term of a lease is for one to 30 years.

(22) "Lessee" refers to any person having a special uses lease granted by the Department authorizing a special use on state-owned land managed by the Department.

(23) "License" is a written authorization issued by the Department to a person allowing the non-exclusive, short-term use of a specific area of state-owned land for a specific use under specific terms and conditions. A special use license has a maximum term of less than three years.

(24) "Licensee" refers to any person having a special use license granted by the Department authorizing a special use on state-owned land managed by the Department.

(25) "Materials and Equipment Storage" means the storage of logs, hay, containers, automobiles, coal, machinery or other items or materials on state-owned land (exclusive of rock, sand, gravel and silt derived from state-owned submerged and submersible land which are governed by other administrative rules).

(26) "Non-Trust Land" is land owned or managed by the Department other than Trust Land. Examples of Non-Trust Land include state-owned Swamp Land Act Land, and submerged and submersible land (land below ordinary high water) under navigable and tidally influenced waterways.

(27) "Operation Period" as applied to wind, solar and biomass energy projects begins when the delivery of electricity from the commercial electrical generating installation begins.

(28) "Outfitting and Guiding Services" include, but are not limited to commercial businesses involved in leading, protecting, instructing, training, packing, guiding, transporting, supervising, interpreting, or otherwise assisting any person in the conduct of outdoor recreational activities. The rental of equipment alone for use in outdoor recreational activities does not constitute commercial outfitting and guiding services.

(29) "Person" includes individuals, corporation, associations, firms, partnerships, limited liability companies and joint stock companies as well as any state or other governmental or political subdivision or agency, public corporation, public authority, or Indian Tribe.

(30) "Preference Right" means a riparian property owner's statutory privilege, as found in ORS 274.040(1), to obtain a lease without advertisement or competitive bid for the state-owned submerged and submersible land that fronts and abuts the riparian owner's property. The Department will not recognize a claim of lease preference right from a non-riparian owner. A person claiming the right of occupancy to submerged and submersible land under a conveyance recorded before January 1, 1981, has a preference right to the requested area.

(31) "Preference Right Holder" means the person holding the preference right to lease as defined in these rules and ORS 274.040(1).

(32) "Rangeland" is state land designated and managed by the Department for rangeland purposes.

(33) "Rangeland Purpose" is the use of rangeland for livestock grazing or conservation use.

(34) "Recreational Cabin" is a dwelling used only periodically or seasonally and is not the principal residence of the owner(s).

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(35) "Semiprecious Stones" are gemstones having a commercial value that is less than precious stones such as diamonds, rubies, emeralds and sapphires. Semiprecious stones include, but are not limited to amethyst, garnet, jade, sunstone, topaz, tourmaline and zircon.

(36) "Short Term Access Authorization" is a non-renewable written authorization issued by the Department for a specific length of time determined by the Director that allows a person to enter a specific parcel of state-owned land for a particular purpose as described in OAR 141-125-0205.

(37) "Solar Energy Installation" includes, but is not limited to the photovoltaic panels, mirrors, power towers, heat engines, generators, transformers, inverters, parabolic troughs and other equipment required to produce electricity from solar energy.

(38) "Special Use" is a use of state-owned land not specifically governed by other Department administrative rules. Special uses are listed in OAR 141-125-0100(2) and (3).

(39) "Special Use Authorization" is a lease, license or short-term access authorization issued by the Department to a person to use a specific area of state-owned land for a special use under specific terms and conditions.

(40) "State Owned Land" is land owned or managed by the Department or its agents and includes Trust and Non-Trust Land.

(41) "Submerged Land" means land lying below the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.

(42) "Submersible Land" means land lying above the line of ordinary low water and below the line of ordinary high water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.

(43) "Sunken Log, Woody Debris and Abandoned Piling Salvage" means the retrieval of sunken logs, woody debris and abandoned pilings lying on, or partially or wholly embedded in state-owned land underlying Oregon's rivers and lakes that are removed for their commercial value.

(44) "Territorial Sea" has the same meaning as provided in ORS 196.405(6). It includes the waters and seabed extending three geographical miles seaward from the line of mean low water to the extent of state jurisdiction.

(45) "Trust Land" is land granted to the state upon its admission into the Union, or obtained by the state as the result of an exchange of Trust Land, or obtained in lieu of originally granted Trust Land, or purchased with trust funds, or obtained through foreclosure of loans using trust funds.

(46) "Upland Quarry" is a site on state-owned land from which rock, boulders, sand, gravel, silt or soil is removed for use for commercial and non-commercial purposes.

(47) "Wind Farm" is a facility consisting of wind turbines interconnected by an electrical collection system.

(48) "Wind Turbine" is a machine that converts the force of the wind into electrical energy. A wind turbine usually consists of one or more moving blades connected to an electrical generator that is mounted on a tower.

Stat. Auth.: ORS 273

Stats. Implemented: OR Const. Art. VIII, Sec. 2 & 5

Hist.: DSL 1-2002, f. 2-7-02, cert. ef. 3-1-02; DSL 3-2008, f. & cert. ef. 10-15-08

141-125-0130

Application Requirements for a Lease or License

(1) Any person wanting to use state-owned land for any of the purposes described in OAR 141-125-0100(2) and (3) must:

(a) Apply in writing to the Department for a lease or license using a form provided by the Department; and

(b) Submit a non-refundable application processing fee payable to the Department to cover the administrative costs of processing the application and issuing the authorization.

(2) The application processing fee for a lease or license is \$750.

(3) Unless otherwise allowed by the Director, a fully completed application for a lease or license must be submitted to the Department at least 180 calendar days prior to the proposed use or placement of a development subject to these rules in, on or over state-owned land.

Stat. Auth.: ORS 273

Stats. Implemented: OR Const. Art. VIII, Sec. 2 & 5

Hist.: DSL 1-2002, f. 2-7-02, cert. ef. 3-1-02; DSL 3-2008, f. & cert. ef. 10-15-08

141-125-0140

Special Use Lease and Permit Application Review and Approval Process

(1) Upon receipt of an application for a lease or license, the Department will determine:

(a) If the application is complete;

(b) If the subject area is available for the requested use;

(c) What method will be used to determine the amount of compensation payable to the Department pursuant to OAR 141-125-0150 and 0160;

(d) If a lease or license under these rules is the required form of authorization, and

(e) If additional information is required concerning the:

(A) Proposed use of the state land; and

(B) Applicant's financial status, or past business or management practices, or both.

(2) The Department will then advise the applicant of its determination concerning each of the five factors in OAR 141-125-0140(1). Applications determined by the Department to be incomplete, or for an area in which the use would be incompatible will be returned to the applicant with a written explanation of the reason(s) for rejection.

(3) If an application rejected for incompleteness is resubmitted within 90 calendar days from the date the Department returned it to the applicant (as determined by the date of postmark) with all deficiencies noted by the Department corrected, no additional application fee will be assessed.

(4) If more than one application for a specific area is received by the Department for the same or conflicting uses subject to authorization by a lease, the Department may:

(a) Determine which proposed use best fulfills the policies specified in OAR 141-125-0110, and accept and proceed with that application and deny the others; or

(b) If neither use is determined by the Department to be demonstrably better, make the subject area available to the public by auction.

(5) Upon acceptance by the Department, the application will be circulated to various local, state and federal agencies and other interested persons including tribal governments, adjacent property holders, affected lessees and permittees, and easement holders for review and comment. As a part of this review, the Department will specifically request comments concerning:

(a) The presence of state or federal listed threatened and endangered species (including candidate species), and archaeological and historic resources within the requested area that may be disturbed by the proposed use;

(b) Conformance of the proposed use with local, state, and federal laws and rules;

(c) Conformance of the proposed use with the local comprehensive land use plan and zoning ordinances;

(d) Conformance with the policies described in OAR 141-125-0110 of these rules; and

(e) Potential conflicts of the proposed use with existing or proposed uses of the requested area.

(6) If the application is for a communications facility, the Department will request comments from the Federal Communications Commission, Public Utility Commission of Oregon, and any other persons owning or leasing communications facilities who advise the Department that they want to receive such applications.

(7) After receipt of comments concerning the proposed use, the Department will advise the applicant in writing:

(a) If changes in the use or the requested lease or license area are necessary to respond to the comments received;

(b) If additional information is required from the applicant, including but not limited to a survey of:

(A) State or federal listed threatened and endangered species (including candidate species) within the requested area; and/or

(B) Archaeological and historic resources within the requested area.

(c) If the area requested for the lease or license will be authorized for use by the applicant through a lease or license, and

(d) Whether the subject area will be made available to the public through competitive bidding pursuant to OAR 141-125-0150. Only requests for leases may be subject to competitive bidding.

(8) If the Department decides to issue a lease to the applicant without competitive bidding, or a license, the Department will notify the applicant in writing of:

(a) The amount of compensation pursuant to OAR 141-125-0160 that the applicant must remit to the Department to obtain the authorization;

(b) Any insurance and surety bond required by the Department pursuant to the requirements of OAR 141-125-0180; and

(c) A draft copy of the lease or license.

(9) The Department will not grant a lease or license to an applicant until:

(a) It has received all fees and compensation specified in these rules, and evidence of any required insurance and surety bond; and

(b) The requirements of OAR 141-125-0170(4) of these rules have been met;

(10) In addition to the provisions of OAR 141-125-0140(9), a special use authorization issued by the Department will not be valid until the holder has received all other authorizations required by the Department (such as a Removal-Fill Permit under ORS 196.800 to 196.990) and other applicable local, state, and federal governing bodies to use the state-owned land in the manner requested.

(11) The Director may refer any applications for a lease or license to the Land Board for review and approval.

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(12) If an application is received and accepted by the Department for a lease on state-owned submerged and submersible land, the Department will, pursuant to the requirements of ORS 274.040, offer a preference right to lease to the eligible party as defined in OAR 141-125-0120(30) and (31), hereafter referred to as the preference right holder. The Department will take the following steps to offer this preference right:

(a) If the proposed lease area consists of a single parcel, or two or more contiguous parcels owned by the same person, the Department will extend the boundaries of the single parcel or combined group of single-ownership parcels perpendicular to the thread of the stream creating a single lease parcel that fronts and abuts the upland ownership.

(b) If the proposed lease area consists of parcels having different owners, the Department will subdivide the requested lease area into smaller parcels by extending lines perpendicular to the thread of the stream from the boundaries of, or within the boundaries of the adjacent riparian tax lot so that there is a separate lease parcel for each parcel of property that fronts and abuts the lease area.

(c) In accordance with the proposed use(s), the Department will calculate in a manner consistent with OAR 141-125-0160 a minimum annual compensatory payment for each lease parcel.

(d) The Department will notify each preference right holder in writing that a lease application has been approved by the Department and provide 30 calendar days from the date that the letter is postmarked for the preference right holder to exercise the preference right to take the lease at the established minimum annual compensatory payment.

(e) If the preference right holder has accepted the offer of a preference right to lease and has executed the lease form and all other documents and remitted the required minimum annual lease rental payment within the required 30 calendar day period, the Department will execute the lease.

(f) If the preference right holder does not exercise the preference right to take a lease applied for by another person, the Department will prepare and publish an advertisement for bids pursuant to ORS 274.040 and hold a public auction pursuant to OAR 141-125-0150. The highest qualified bidder will be awarded the lease. The minimum bid amount will be set by the Department.

Stat. Auth.: ORS 273

Stats. Implemented: OR Const. Art. VIII, Sec. 2 & 5

Hist.: DSL 1-2002, f. 2-7-02, cert. ef. 3-1-02; DSL 3-2008, f. & cert. ef. 10-15-08

141-125-0150

Competitive Bidding Process

(1) Except as provided in OAR 141-125-0110(10) and 141-125-0140(11), the Department will determine on a case-by-case basis if an area requested for a lease will be offered to the public through competitive bidding. This decision will be made after considering:

(a) Whether the area requested for a lease is for a use located on Trust or Non-Trust Land;

(b) The nature of the use and length of authorization requested;

(c) The availability of reliable data regarding the comparative compensatory payments for the proposed use; and

(d) Whether other applications are received by the Department to use the same area requested for the same or competing uses.

(2) The Department will give Notice of Parcel Availability and provide an opportunity for applications to be submitted if it:

(a) Determines that the greatest public benefit and/or trust obligations of the Department would be best served by offering the subject area through competitive bidding, or

(b) Is required to offer all or part of the subject area for competitive bid because the preference right holder did not exercise their preference right to take a lease.

(3) The Notice of Parcel Availability will state:

(a) The location and size of the subject area;

(b) The use approved by the Department for the subject area;

(c) The type of auction and minimum acceptable bid amount;

(d) What developments, if any, on the subject area the applicant must purchase from the existing lessee, and a general estimate of the present value of said developments as determined by the Department; and

(e) The deadline for submitting a completed application to the Department.

(4) The Notice of Parcel Availability will be:

(a) Published at the applicant's or, if more than one applicant, applicants' expense, with the cost being divided equally among the applicants, not less than once each week for two successive weeks in a newspaper of general circulation in the county or counties in which the subject parcel is located;

(b) Posted on the Department's internet web site; and

(c) Sent to persons indicating an interest in the subject parcel.

(5) The highest qualified bidder will be awarded the lease at auction subject to satisfaction of the requirements of OAR 141-125-0140(9) and

141-125-0170(4) of these rules. However, the Department will have the right to reject any and all bids submitted.

(6) The Department may offer parcels for which no application has been received to the public through a competitive bidding process. When doing this the Department will follow the competitive bidding process provided in OAR 141-125-0150(3) through (5) and be responsible for the expenses of publishing the required notices.

Stat. Auth.: ORS 273

Stats. Implemented: OR Const. Art. VIII, Sec. 2 & 5

Hist.: DSL 1-2002, f. 2-7-02, cert. ef. 3-1-02; DSL 3-2008, f. & cert. ef. 10-15-08

141-125-0160

Compensation

(1) To establish the amount of compensation or minimum bid at auction, the Department will:

(a) Adhere to the policies contained in OAR 141-125-0110(1) and (2) of these rules, and

(b) Whenever practicable, base the amount on comparative compensatory payments for publicly or privately-owned parcels located as close as possible to the state-owned land requested by an applicant.

(2) In the event that reliable data concerning comparative compensatory payments are not available, the Department will select another method of determining the amount of compensatory payment or minimum bid at auction such as a percent of the appraised value of the requested area, percent of crop or product value, or percent of product produced.

(3) For the uses indicated in OAR 141-125-0160(4) through 141-125-0160(11), the Department will determine the amount of compensatory payment owed by the holder of a special use lease or license using the method(s) indicated.

(4) Agricultural Uses As an alternative to basing the amount of compensation due for an agricultural use on comparative compensatory payments, the Department may, at its discretion, use a cropshare approach. If this methodology is used, the state's share will be no less than 25 percent of the value received by the holder of a special use lease or license in payment for each crop harvested from the authorized area.

(5) Communications Facilities The holder of a special use lease or license for a communications facility must remit to the Department on a basis provided in the authorization both:

(A) The full amount of the base annual compensation determined by the Department to be the comparative compensatory payment for similar communications facilities; and

(B) A payment equal to 25 percent of the rental received by the lessee during the previous 12 month period from sublessees and sublicensees using the subject facility authorized by the lease or license.

(b) If the holder of a lease or license for a communications facility allows other persons to use the facility (for example, to place or attach antennas, microwave dishes, or other signal broadcasting or receiving equipment on the site or to a tower), the holder of the authorization must record and report data concerning the number sublessees and sublicensees, and the amount of compensation received from them to the Department on a basis and at an interval set by the Department and included as a provision of the license or lease.

(6) Upland Quarry:

(a) The holder of a special use lease or license for an upland quarry must remit to the Department:

(A) Eight percent of the gross revenue received by the lessee or licensee from the sale of the rock, boulders, sand, gravel, silt or soil removed by the lessee or licensee; or

(B) The compensation rate in effect at the time of removal as provided in OAR 141-014 (Rules for Authorizing Leases and Licenses for the Removal or Use of Rock, Sand, Gravel and Silt Derived from State-Owned Submerged and Submersible Land) for "shorecast dredge spoils" if the lessee or licensee uses the rock, boulders, sand, gravel, silt or soil.

(b) Data concerning the quantity of rock, boulders, sand, gravel, silt or soil removed and sold, and the revenue received from any sales will be recorded and reported by the lessee or licensee to the Department on a basis and at an interval set by the Department and included as a provision of the license or lease.

(c) In addition to the compensation required under OAR 141-125-0160(6)(a), the holder of a special use license or lease for an upland quarry is required to pay the compensation due for any easements (for example, roads leading into the quarry and power lines crossing state land) or other forms of authorization required by Department rules.

(7) Semiprecious Stones, Petrified Wood and Fossils Any person removing semiprecious stones, petrified wood or fossils for commercial purposes must remit to the Department within 30 calendar days of the removal of any semiprecious stones, petrified wood and fossils:

(a) Compensatory payment in the amount of 10 percent of the market value of the semiprecious stones, petrified wood and fossils; and

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(b) Photocopies of the evidence used by the lessee or licensee to determine the market value of the semiprecious stones, petrified wood and fossils removed. This evidence must accompany the payment of compensation owed. Documentation suitable to the Department includes, but is not limited to a sales receipt (if the material is sold to another party); an appraisal by a gemologist or mineral dealer; or advertisements for the sale of similar material in lapidary magazines or trade journals.

(8) Retrieval of Sunken Logs, Woody Debris and Abandoned Pilings

(a) The holder of a special use license or lease to retrieve sunken logs, woody debris and abandoned pilings from state-owned submerged and submersible land for their commercial value must remit to the Department 10 percent of the gross revenue received by the lessee or licensee from the sale of any logs or lumber products produced from the logs.

(b) Data concerning the quantity of lumber recovered or sold and revenue received from any sales must be recorded and reported by the lessee or licensee to the Department on a basis to be set by the Department and included as a provision of the license or lease.

(c) In addition to the compensation required under OAR 141-125-0160(8)(a), the holder a special use lease or license to retrieve sunken logs, woody debris and abandoned pilings must also pay the compensation due for any easements (for example, storage of logs on state-owned land) or other forms of authorization required by the Department.

(9) Wind Turbines/Wind Farms:

(a) The holder of a special use lease or license must remit to the Department:

(A) During the demonstration project period the greatest of:

(i) \$500;

(ii) \$5.00 per acre of land within the authorized area; or

(iii) The comparative compensatory payment received by other landowners for similar demonstration projects.

(B) During the construction period a one-time installation fee equal to \$3,000 times the number of megawatts of nameplate rated capacity for each wind turbine to be installed as a part of that phase of the development.

(C) During the operation period:

(i) 2.5 percent of the gross revenue received by the lessee for, or the value of the electricity generated by each turbine during from the start of the operation through year 10;

(ii) 3.5 percent of the gross revenue received by the lessee for, or the value of the electricity generated by each turbine from year 11 through year 15;

(iii) 4.0 percent of the gross revenue received by the lessee for, or the value of the electricity generated by each turbine from year 16 until the termination of the operation of that turbine.

(D) During the decommissioning period: An amount to be determined by the Director based on the compensation which could reasonably be expected to be received by the Department for the use of the land encumbered by the wind power project.

(b) Notwithstanding the provisions of OAR 141-125-0160(9)(a), the director reserves the right to establish another rate of compensation to be charged by the Department during the construction and operation periods based on factors unique to an operation (for example, distance of the operation from major transmission lines and variability of the wind) and comparative compensatory payments.

(c) The lessee or licensee will record and report the amount of electricity generated by each wind turbine and wind farm under lease as well as the gross revenue resulting from that generation on a basis to be determined by the Department and included as a provision of the lease. Gross revenue is defined as all revenues earned through the sale of the electricity by the lessee to purchasers.

(d) In the event the lessee or licensee consumes all, or a portion of the electricity generated by the wind turbine and wind farm, the Department will establish a value for that electricity based on what the lessee or licensee would have to pay a utility for the equivalent amount of electricity delivered to the lessee's or licensee's point of demand as well as information provided by the lessee.

(e) In addition to the compensation required under OAR 141-125-0160(9)(a) and (b), the holder of a lease or license for a wind turbine and wind farm is required to pay to the Department the compensation due for any easements (for example, transmission lines crossing state land) or other forms of authorization required by the Department.

(10) Solar Energy Installation

(a) The holder of a special use lease or license for a solar energy installation must remit to the Department:

(A) During the demonstration project period the greatest of:

(i) \$500;

(ii) \$5.00 per acre of land within the authorized area; or

(iii) The comparative compensatory payment received by other landowners for similar demonstration projects.

(B) During the construction, operation and decommissioning periods, an amount to be determined by the Director based on comparative compensatory payments.

(b) Data concerning the amount of generation and its value will be recorded and reported by the lessee to the Department on a basis to be determined by the Department and included as a provision of the license or lease.

(c) In addition to the compensation required under OAR 141-125-0160(10)(a) and (b), the holder of a special use lease or license for solar energy installation is required to pay the compensation due for any easements (for example, transmission lines crossing state land) or other forms of authorization required by the Department.

(11) Biomass Generating Facility

(a) The holder of a special use lease or license for a commercial electrical energy generating installation using biomass must remit to the Department:

(A) During the demonstration project period the greatest of:

(i) \$500;

(ii) \$5.00 per acre of land within the authorized area; or

(iii) The comparative compensatory payment received by other landowners for similar demonstration projects.

(B) During the construction, operation and decommissioning periods, an amount to be determined by the Director based on comparative compensatory payments.

(b) Data concerning the amount of generation and its value will be recorded and reported by the lessee to the Department on a basis to be determined by the Department and included as a provision of the license or lease.

(c) In addition to the compensation required under OAR 141-125-0160(11)(a), the holder of a special use lease for biomass generating facility is required to pay the compensation due for any easements (for example, transmission lines crossing state land) or other forms of authorization required by the Department.

(d) If the biomass used to fuel a generating facility is obtained from state-owned land, the Director will determine the amount of compensation owed by the lessee for the use of this material.

(12) Regardless of the type of use that is subject to a special use authorization, the amount of annual compensation received by the Department will not be less than:

(a) \$500 per year for all leases except those for communications facilities;

(b) \$750 per year for special use leases for communications facilities;

(c) \$100 per year for licenses; or

(d) The minimum bid when the lease is awarded through public auction.

(13) Communications facilities located on Non-Trust Land outside of the designated limits of a city may be exempt from the mandatory compensation payments specified in OAR 141-125-0160(5) pursuant to the provisions of ORS 758.010(1). However, the owners of such facilities must apply for and obtain a lease or license from the Department.

Stat. Auth.: ORS 273

Stats. Implemented: OR Const. Art. VIII, Sec. 2 & 5

Hist.: DSL 1-2002, f. 2-7-02, cert. ef. 3-1-02; DSL 3-2008, f. & cert. ef. 10-15-08

141-125-0170

General Terms and Conditions

(1) The term of a special use lease will not exceed 30 years unless otherwise approved by the Director. The Department will determine the length of a lease based on the nature of the use intended for the requested site. The Department may, at its discretion, provide as a provision of the lease that it may be renewed for a term to be determined by the Department.

(2) The term of a license will be less than three years. A license may, upon receipt by the Department of a written request, be renewed up to two times at the discretion of the Department for a maximum term of one year each time.

(3) Leases and licenses will be offered by the Department for the minimum area determined by the Department to be required for the requested use.

(4) A special use authorization issued by the Department will be on a form supplied by the Department that has been approved for legal sufficiency by the Department of Justice pursuant to ORS 291.045 to 291.047 (Public Contract Approval).

(5) The holder of a lease or license may request the Department close all or portions of the authorized area to public entry or restrict recreational use by the public to protect the persons, property, developments and/or crops from harm.

(6) The Department or its authorized representative(s) will have the right to enter into and upon the authorized area at any time for the purposes of inspection or management, or to conduct noxious plant or pest abatement, or for wildfire control.

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(7) The holder of a special use authorization must dispose of all waste in a proper manner and must not permit debris, garbage or other refuse to either accumulate within the authorized area or be discharged into any waterway.

(8) Unless otherwise agreed to in writing as a provision of the authorization, the holder of a special use authorization may not interfere with lawful public use of an authorized area, or obstruct free transit across state land, or intimidate or otherwise threaten or harm public users of state land.

(9) The holder of a special use authorization must cooperate and comply with:

(a) Appropriate county agencies and the Oregon Department of Agriculture in the detection, prevention and control of noxious plants. The Department will rely on the Oregon Department of Agriculture for information concerning which noxious plants present on an authorized area require corrective action by the lessee or licensee, or the Oregon Department of Agriculture or its agents;

(b) The Oregon Department of Agriculture and the Department in the management of plant pests and diseases; and

(c) The Department and other agencies in the detection, prevention and control of wildfires on an authorized area.

(10) Unless otherwise agreed to in writing in the special use authorization, the holder of the authorization, must remove any or all developments as directed by the Department within 60 calendar days of the date of the expiration or termination of the authorization. If the holder of the special use authorization refuses to remove the subject developments, the Department may remove them and charge the holder for doing so.

(11) The holder of a special use authorization will not allow any other use to be made of, or occur on the site or facility that is not specifically authorized:

(a) By that authorization; or

(b) By the Department in writing prior to the use.

(12) The holder of a special use authorization must conduct all operations within the authorized area in a manner that conserves fish and wildlife habitat; protects water quality; and does not contribute to insect or animal infestation, soil erosion or the growth of noxious plants.

(13) The holder of a special use authorization must maintain all buildings, machinery, equipment and similar structures and improvements located within the authorized area in a good state of repair as determined by the Department.

(14) If requested by the Department, an applicant for a special use authorization must present evidence to the Department prior to the use that they have obtained:

(a) All authorizations required by local, state, and federal governing bodies to undertake the proposed use;

(b) Any authorization that may be required to obtain access or to cross land belonging to a person other than the Department to undertake the use; and

(c) A surety bond and comprehensive or commercial general liability insurance required by the Department.

(15) The Department may require that a person who is granted a:

(a) Special use license by the Department to conduct an investigation or demonstration project using wind, solar energy or biomass to generate electricity to provide the results obtained from the investigation or demonstration project, or both, to the Department, or

(b) Short term access authorization by the Department for scientific or research purposes to provide the data obtained or developed from the investigation (for example, geological core logs or biological surveys) to the Department.

(16) The holder of a lease or license will indemnify the State of Oregon and the Department of State Lands against any claim or costs arising from or related to a release of a hazardous substance on or from the authorized area. Additionally, the Department may require that the holder of a short term access agreement also provide the same indemnification contingent on the use of the authorized area requested.

(17) A holder of a lease or license that provides for a renewal must reapply to the Department using a form provided by the Department and remit the required application processing fee to the Department. Unless otherwise allowed by the Director, this form must be received by the Department along with the required application processing fee at least 180 calendar days prior to the expiration of the lease or license for which renewal is requested.

Stat. Auth.: ORS 273

Stats. Implemented: OR Const. Art. VIII, Sec. 2 & 5

Hist.: DSL 1-2002, f. 2-7-02, cert. ef. 3-1-02; DSL 3-2008, f. & cert. ef. 10-15-08

141-125-0180

Insurance and Bond

(1) The Department, in the exercise of its reasonable discretion, may require the holder of a special use authorization to obtain insurance in a

specified amount if the use, in the opinion of the Department, constitutes a risk to public safety, or to the State of Oregon.

(2) The Department may request that the applicant for, or the holder of a special use authorization provide information concerning the use of the area to the Risk Management Division of the Oregon Department of Administrative Services, which may assist the Department in determining the appropriate amount of insurance coverage based on the nature of the use.

(3) The Department may, at its discretion, require that the holder of a special use authorization obtain a surety or bid bond in an amount specified by the Department (or a cash deposit in an amount equal to the surety bond and which names the State of Oregon as co-owner) to ensure that they will perform in accordance with all terms and conditions of an authorization.

Stat. Auth.: ORS 273

Stats. Implemented: OR Const. Art. VIII, Sec. 2 & 5

Hist.: DSL 1-2002, f. 2-7-02, cert. ef. 3-1-02; DSL 3-2008, f. & cert. ef. 10-15-08

141-125-0190

Termination of a Special Use Lease, License or Short Term Access Authorization For Default

(1) If the holder of a special use authorization fails to comply with these rules or the terms and conditions of the authorization, or otherwise violates laws governing their use of the authorized area, the Department will notify the holder of the authorization in writing of the default and demand correction within a specified time frame.

(2) If the holder of a special use authorization fails to correct the default within the time frame specified, the Department may:

(a) Modify or terminate the authorization; and

(b) Request the Attorney General to take appropriate legal action against the holder of the authorization.

Stat. Auth.: ORS 273

Stats. Implemented: OR Const. Art. VIII, Sec. 2 & 5

Hist.: DSL 1-2002, f. 2-7-02, cert. ef. 3-1-02; DSL 3-2008, f. & cert. ef. 10-15-08

141-125-0200

Assignment of Special Use Leases and Permits; Subleasing

(1) A lease in good standing is assignable.

(2) Licenses and short-term access authorizations are non-assignable.

(3) To assign a lease, the lessee must submit a:

(a) Notice of proposed assignment on a form provided by the Department at least 60 calendar days prior to the date that the assignment is to occur; and

(b) Non-refundable assignment processing fee of \$750 payable to the Department.

(4) The Department may request additional information concerning the proposed assignment.

(5) A lessee or licensee wanting to offer a sublease or sublicense to another person must:

(a) Obtain prior written authorization from the Department by applying to the Department on a form provided by the Department at least 60 calendar days prior to the date that the sublease or sublicense is desired;

(b) Submit a non-refundable sublease or sublicense review fee of \$250 along with the application form; and

(c) If the lease or license is for a communications facility, submit to the Department the amount provided in OAR 141-125-0160(5)(a)(B) for each sublessee or sublicensee at the end of each calendar year.

Stat. Auth.: ORS 273

Stats. Implemented: OR Const. Art. VIII, Sec. 2 & 5

Hist.: DSL 1-2002, f. 2-7-02, cert. ef. 3-1-02; DSL 3-2008, f. & cert. ef. 10-15-08

141-125-0205

Short Term Access Authorization Application Requirements, Review and Approval Process

(1) A short-term access authorization is required for any use of state-owned land that is not specifically governed by other Department administrative rules. Examples of types of uses that may require a short-term access authorization are:

(a) An academic research or educational project;

(b) A scientific experiment that requires the exclusive use of a parcel of land;

(c) Collection of geologic or vegetative samples; and

(d) Removal of juniper for non-commercial purposes.

(e) Other uses or developments determined by the Director based on their impacts on state-owned land.

(2) A short-term access authorization is granted by the Department for a specific length of time to be determined by the Director that allows a person to enter a specific parcel of state-owned land for a particular purpose.

(3) Any person wanting a special use short-term access authorization must:

(a) Apply in writing to the Department using a form provided by the Department; and

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(b) Submit a fully completed application to the Department at least 30 calendar days (unless otherwise allowed by the Director) prior to the proposed use.

(4) Upon receipt of an application the Department will determine:

(a) If the application is complete;

(b) If the subject area is available for the requested use; and

(c) If additional information is required concerning the proposed use of the state land, or the applicant's financial status, or past business and management practices.

(5) Upon acceptance by the Department, the Department will review the application to determine, among other considerations:

(a) The impacts of the proposed use on the environment, habitat, and other uses of the requested area, and the magnitude of these impacts;

(b) The need for the proposed use within the requested area; and

(c) Conformance of the proposed use with the policies provided in OAR 141-125 0110.

(6) The Department reserves the right to:

(a) Require that the applicant obtain written approvals from local, state and federal government agencies indicating that the proposed use conforms with local, state and federal laws and rules as well as the local comprehensive land use plan and zoning ordinances; and

(b) Circulate the application for review and comment pursuant to the provisions of OAR 141-125-0140 to obtain additional information to use in making its decision whether to grant the requested short-term access authorization.

(7) The Department will then advise the applicant of its determination concerning each of the three factors in OAR 141-125-0205(5). Applications determined by the Department to be incomplete will be returned to the applicant with a written explanation of the reason(s) for rejection.

(8) If an application rejected for incompleteness is resubmitted by the applicant within 30 calendar days from the date the Department returned it to the applicant (as determined by the date of postmark) with all deficiencies noted by the Department corrected, no additional application fee will be assessed.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

Hist.: DSL 3-2008, f. & cert. ef. 10-15-08

141-125-0210

Enforcement Actions; Civil Penalties and Other Remedies

(1) Upon the Director's own initiative, or in response to a complaint, the Director may investigate a suspected violation of a special use authorization or the alleged unauthorized use of state land to determine if use of the state land conforms with the terms and conditions of a special use authorization, or to determine if the use is not authorized.

(2) In conducting the inspection relative to suspected or alleged violations of a special use authorization issued by the Director, the Director, or the Director's agent, may enter onto private property of the holder of the authorization in order to determine if a violation has occurred.

(3) Upon a determination that a violation of the special use authorization has occurred or that an unauthorized use of state land has occurred, the Director may exercise the remedies set forth in the special use authorization, any other remedies available at law, or impose civil penalties consistent with OAR 141-125-0210(4), below.

(4) The unauthorized use of state-owned submerged and submersible land or a violation of a special use authorization granted under these rules authorizing the use of state-owned submerged and submersible land are a violation of ORS 274.040 and OAR 141-082. In addition to any other penalty or sanction provided by law, the Director may assess a civil penalty pursuant to ORS 274.992, 274.994, and OAR 141-082-0130 for the unauthorized use of state-owned submerged and submersible land, or for the violation of a special use authorization granted under these rules authorizing the use of state-owned submerged and submersible land.

Stat. Auth.: ORS 273

Stats. Implemented: OR Const. Art. VIII, Sec. 2 & 5

Hist.: DSL 1-2002, f. 2-7-02, cert. ef. 3-1-02; DSL 3-2008, f. & cert. ef. 10-15-08

141-125-0220

Reconsideration of Decision

(1) An applicant for a special use authorization, or any other person adversely affected by the issuance or denial of special use authorization on state-owned land may request that the Director or the Land Board, depending upon which entity made the decision, reconsider the decision:

(a) Such a request must be received by the Director no later than 30 calendar days after the date of delivery of the decision.

(b) The Director will review the request within 60 calendar days after the date of delivery of the request.

(c) If the Director made the decision of concern, s/he may affirm the decision, issue a new or modified decision, or request the applicant to submit additional information to support the appeal.

(d) If the decision was made by the Land Board, the Director may recommend to the Land Board either that the special use authorization issuance or denial be affirmed based on the merits of the request, or that the Land Board authorize initiation of a contested case proceeding.

(2) If the Director recommends initiating a contested case proceeding, the Department will select a hearing officer and proceed pursuant to ORS 183.413 through 183.470.

Stat. Auth.: ORS 273

Stats. Implemented: OR Const. Art. VIII, Sec. 2 & 5

Hist.: DSL 1-2002, f. 2-7-02, cert. ef. 3-1-02; DSL 3-2008, f. & cert. ef. 10-15-08

Rule Caption: Rules for Granting Easements on Trust and Non-Trust Land.

Adm. Order No.: DSL 4-2008

Filed with Sec. of State: 10-15-2008

Certified to be Effective: 10-15-08

Notice Publication Date: 7-1-2008

Rules Adopted: 141-122-0130

Rules Amended: 141-122-0010, 141-122-0020, 141-122-0030, 141-122-0040, 141-122-0050, 141-122-0060, 141-122-0070, 141-122-0080, 141-122-0090, 141-122-0100, 141-122-0105, 141-122-0110, 141-122-0120

Subject: These rules govern the granting and renewal of easements on state-owned Trust and Non-trust Land. They do not apply to the

(1) granting of easements for fiber optic and other cables on state-owned submerged and submersible land within the Territorial Sea;

(2) granting of authorizations for hydroelectric projects on state-owned trust and Non-Trust Land; (3) Dedication of roads for rights-of-way required of the Department or its agents by local government resulting from a local land use approval involving state-owned land; or (4) existing valid easements granted prior to the adoption of these rules.

Rules Coordinator: Elizabeth Martino—(503) 986-5239

141-122-0010

Purpose and Applicability

(1) These rules:

(a) Govern the granting and renewal of easements on state-owned Trust and Non-Trust land as specified herein.

(b) Do not apply to the:

(A) Granting of easements for fiber optic and other cables on state-owned submerged and submersible land within the Territorial Sea, an activity governed by OAR 141-083 (Rules For Granting Easements For Fiber Optic And Other Cables On State-Owned Submerged and Submersible Land Within The Territorial Sea);

(B) Granting of authorizations for hydroelectric projects on state-owned Trust and Non-Trust Land, an activity governed by OAR 141-087;

(C) Dedication of roads or rights-of-way required of the Department or its agents by local government resulting from a local land use approval involving state-owned land; or

(D) Existing valid easements granted prior to the adoption of these rules.

(c) Require prior authorization for all uses described under OAR 141-122-0010(2) and (3) unless otherwise exempt from easement under the provisions of OAR 141-122-0010(4) of these rules.

(d) Contain specific provisions relating to the granting of easements by:

(A) The Department and the Oregon State Forester on Common School Forest Land; and

(B) The Department to persons who have or will place a structure or facility on state-owned Non-Trust Land necessary for the use of water to take water for which they have a right to use the water.

(2) Unless otherwise exempt under the provisions of OAR 141-122-0010(4) of these rules, developments and uses of state-owned land subject to easement include, but are not limited to the following:

(a) Water, gas, electric and communication service lines (including fiber optic cables) and associated equipment such as pumping stations, transformers and meters;

(b) Innerducts and conduits for cables (regardless of whether they contain a cable or are in use);

(c) Water supply pipelines, ditches, canals, and flumes;

(d) Drainage and irrigation works;

(e) Sewer, storm, and cooling water lines, including outfalls;

(f) Bridges, skylines, and logging lines;

(g) Railroad and light rail track, bridges, stations, depots, and other related facilities;

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- (h) Roads and trails of all types;
 - (i) Overhead transportation lines (for example, skylines, tramways, logging lines, etc.);
 - (j) Storage of materials (for example, sand, gravel, dredge spoils, etc.);
 - (k) Encroachments; and
 - (l) Erosion control structures, dikes, levees, and tidegates.
- (3) The Director may determine that other uses and developments similar to those specified in OAR 141-122-0010(2) are also subject to authorization by, or exempted from an easement and these rules.

(4) An easement is not required:

(a) For uses or developments on either Trust or Non-Trust Land that would require an easement under these rules if the person undertaking the use or owning the development has obtained a valid authorization from the Department pursuant to the provisions of OAR 141-082 (Leasing and Registration of Structures on, and Uses of State-Owned Submerged and Submersible Lands); OAR 141-110 (Management and Leasing of Rangeland Forage); or OAR 141-125 (Authorizing Special Uses on State-Owned Land), provided the proposed use or development is located on the land which is subject of the authorization, is incidental to the specific use that is the subject of the authorization, and does not result in an additional burden on the land; or

(b) For any structure or facility necessary for the use of water crossing or situated on state-owned submersible land if:

(A) The withdrawal is authorized by a valid right to use the water; and

(B) The water is used exclusively for irrigation or domestic use; or

(c) For water, gas, electric and communication lines physically attached to and supported by county or state-owned bridges that cross state-owned waterways which are located outside of city limits. If the water, gas, electric and communication lines are located within a city, or cross a state-owned waterway within a city, they are subject to easement unless otherwise exempt by these rules.

(5) A person who is exempt from obtaining an easement under the provisions of OAR 141-122-0010(4) may apply to obtain an easement, and the Department may authorize an easement even though none is required under these rules. The application shall be processed in accordance with OAR 141-122-0050.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490 & 758.010

Hist.: DSL 6-2000, f. 8-11-00, cert. ef. 9-1-00; DSL 7-2002, f. 12-23-02, cert. ef. 1-1-03; DSL 4-2008, f. & cert. ef. 10-15-08

141-122-0020

Policies

(1) Pursuant to Article VIII, Section 5(2) of the Oregon Constitution, the State Land Board, through the Department, has a constitutional responsibility to manage all land (Trust and Non-Trust) under its jurisdiction "with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management."

(2) In addition to the constitutional mandate stipulated in OAR 141-122-0020(1), the Department is required to manage its Trust Land to ensure that full market value is obtained from any use of this asset.

(3) The Department will follow the guiding principles and resource-specific management prescriptions contained in the Asset Management Plan, and consider the comments received from federal, state, and local governments and interested persons when determining whether to authorize or condition an easement on state-owned land.

(4) The Department will manage state-owned submerged and submersible land to ensure the collective rights of the public to fully use and enjoy this resource for commerce, navigation, fishing, recreation, and other related public purposes consistent with applicable federal and state laws.

(5) The Department will not grant an easement if:

(a) As a result of its circulation for public comment of the application for easement as described in OAR 141-122-0050(3) it determines that the proposed use or development would unreasonably impact uses or developments proposed or already in place within the requested area; or

(b) The easement is in an area the Department has closed to the granting of easements or other authorizations offered by the agency. Such areas may be identified by contacting the Department.

(6) The Department will:

(a) Recognize all valid easements of record on land acquired by the Department as disclosed at the time of acquisition; and

(b) Honor any renewal provisions contained in existing valid easements granted by the Department if the holder of the easement has complied with all terms and conditions of the easement and applies to the Department for a new easement as prescribed in these rules.

(7) Except as provided in OAR 141-122-010(4), 141-122-0100, and 141-122-0105(2), any person wanting to use or place a development on state-owned land subject to an easement must obtain a written authorization in the form of an easement from the Department prior to beginning the use

or placing the development. Additionally, an easement is required for any use or development that encroaches on state-owned land regardless of their height above or below, or manner of crossing the state-owned land.

(8) Unless otherwise exempt by these rules, each individual use of, or development placed on state-owned land constitutes a separate discrete activity subject to:

(a) An easement specifically authorizing only that individual use or development; and

(b) Payment of compensation as required in these rules.

(9) The Department may, at its discretion, deny an easement if the applicant's financial status or past business practices, or both, indicate that the applicant may not:

(a) Be able to fully meet the terms and conditions of an easement offered by the Department; or

(b) Use the land applied for in a way that meets the provisions of OAR 141-122-0020.

(10) An easement cannot be established on Department-managed land by adverse possession regardless of the length of time the use or development has been in existence.

(11) The Department may:

(a) Conduct field inspections to determine if the uses and developments in place on state-owned land are authorized by, or conform with the terms and conditions of an easement and, if not;

(b) Pursue whatever remedies are available under law and OAR 141-122-0130 to ensure that unauthorized uses subject to an easement on state-owned land are either brought into compliance with the requirements of these rules or removed.

(12) Pursuant to the provisions of ORS 530.490(2) and (3), the Oregon State Forester may issue easements on Common School Forest Land in accordance with these rules (OAR 141-122-0100) and those adopted by the Oregon State Board of Forestry.

(13) The Department will not grant an easement if the proposed use or development is inconsistent with any endangered species management plan adopted by the Department under the Oregon Endangered Species Act (ORS 496.171 to 496.192).

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490 & 758.010

Hist.: DSL 6-2000, f. 8-11-00, cert. ef. 9-1-00; DSL 7-2002, f. 12-23-02, cert. ef. 1-1-03; DSL 4-2008, f. & cert. ef. 10-15-08

141-122-0030

Definitions

(1) "Applicant" is any person applying for an easement.

(2) "Asset Management Plan" is the plan adopted by the State Land Board that provides the policy direction and management principles to guide both the short and long-term management by the Department of the Common School Fund's real estate assets.

(3) "Attenuator" is a fixed or floating device that is placed in the water to absorb or reduce the energy contained in waves.

(4) "Authorized Area" is the area of state-owned land defined in the easement for which a use is authorized.

(5) "Cable" means a conductor of electricity or light with insulation, or a combination of conductors insulated from one another within a single jacket or sheath.

(6) "Circuit" means a system of conductors through which an electric current is intended to flow. A single pole or transmission tower may support one or more circuits, each of which may consist of up to four separate conductors.

(7) "City" means a city incorporated under ORS 221.020 through 221.100.

(8) "City Limits" refers to the boundaries of a city incorporated under ORS 221.020 through 221.100.

(9) "Common School Forest Land" is Trust Land that has been designated or "certified" by the State Land Board and the Oregon Board of Forestry for management by the Oregon Department of Forestry under contract between the State Forester and the State Land Board as allowed in ORS 530.450 through 530.520.

(10) "Communication Line" is any cable including fiber optic cable which transmits electronic information, telephone or television signals or other data.

(11) "Comparative Compensatory Payment" is the amount of money paid to owners of parcels that are similar to the state-owned land requested by an applicant for a use that is the same as, or similar to that requested by an applicant. When the applicant's requested use is in, on or over Trust Land, the comparative compensatory payment is the maximum amount of money private landowners receive for the same or similar uses in, on or over parcels that they own that are similar to the Trust Land requested by the applicant

(12) "Compensation" or "Compensatory Payment" is the amount of money paid for an easement to the Department for the use of Department-managed land

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(13) "Conduit" is a pipe that protects cables from damage. It may be buried or used in above-ground applications such as bridge crossings. Innerducts may be installed within a conduit to facilitate individual cable installation.

(14) "Conservation Easement" is a type of easement granted by the Department that limits or prevents uses on a parcel of land in order to protect or enhance the property's ecological or open-space values.

(15) "Deflector" is a structural barrier such as a groin or jetty projecting into a waterway to divert flow away from and prevent eroding sections of the banks of a waterway.

(16) "Department" means the Department of State Lands.

(17) "Development" is any structure or physical facility (for example, each cable, innerduct, innerduct and cable, conduit, conduit and cable, pipeline, electrical line, communication line, bridge, road, fence, ditch, reservoir, or easement-associated building) on state-owned land subject to, or authorized by an easement granted by the Department.

(18) "Director" means the Director of the Department of State Lands or designee.

(19) "Domestic Use" means the use of water for human consumption and household purposes that is necessary for the sustenance of an individual, family unit or household. Domestic use may also include water used by an individual family unit or household for heating or cooling purposes.

(20) "Easement" is an authorization granted by the Department that gives a person the use of a specifically designated parcel of state-owned land for a specific purpose and length of time. An easement does not convey any proprietary or other rights of use to the holder other than those specifically granted in the easement authorization.

(21) "Encroachment" is an unauthorized development or use, such as, but not limited to a structure, fill, or pile of aggregate, that overlaps on, or otherwise occupies or restricts the full use of state-owned land. An encroachment may also occur when the holder of an easement granted by the Department extends their use outside of the area authorized by that easement or adds a use or development not authorized.

(22) "Erosion Control Structures" mean revetments, attenuators, deflectors, retaining walls, riprap and other structures placed adjacent to, or on the bank of a waterway or lake to stabilize its position and to prevent or reduce erosion.

(23) "Fair Market Value" is the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell, and both having reasonable knowledge of the relevant facts concerning the property.

(24) "Fiber Optic Cable" means an insulated and often armored cable used to transmit telecommunications through glass fibers using pulses of light.

(25) "Gas Lines and Associated Fixtures" are the pipelines and required compressor and gate stations, valves, meters, regulators, relief stacks, marker posts, rectifiers, and all other related fixtures and equipment necessary to deliver natural gas from the point of origin to the user.

(26) "Governmental Body" means an agency of the Federal Government, the State of Oregon, and every political subdivision thereof as defined in ORS 271.005.

(27) "Individual Use" or "Individual Development" is each separate use of, or development placed on state-owned land.

(28) "Innerduct" is tubing that not only protects fiber optic and other types of cables, but also facilitates their installation. It is often placed inside a conduit, or may be buried directly into the ground.

(29) "Irrigation" or "Irrigation Use" means the artificial application of water to crops or plants by controlled means to promote growth or to nourish crops or plants. Examples of irrigation uses include, but are not limited to, watering of an agricultural crop, commercial garden, tree farm, orchard, park, golf course play field or vineyard.

(30) "Non-Trust Land" is land managed by the Department other than Trust Land. Examples of Non-Trust Land include state-owned Swamp Land Act Land, and submerged and submersible land [(land below ordinary high water)] under navigable and tidally influenced waterways.

(31) "Permanent Easement" is a type of easement that is issued in perpetuity.

(32) "Person" includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies as well as any state or other governmental or political subdivision or agency, public corporation, public authority, or Indian Tribe.

(33) "Right To Use Water" is a water right permit, water right certificate, or a proposed or final order approving a water right permit granted by the Oregon Water Resources Department, or court decree evidencing a water right, authorizing a person to take and use a specific quantity of water for a specific use or uses from a specific location under specific terms and conditions.

(34) "Rip-Rap" means crushed rock or concrete placed on the bank of a waterway or lake to prevent or reduce erosion of the bank.

(35) "State Land" or "State-Owned Land" is land owned or managed by the Department or its agents and includes Trust Land and Non-Trust Land.

(36) "Structure or Facility Necessary for the Use of Water" means the pipelines and required stands, pumps, wiring, fish screens, and similar equipment necessary to convey water from the point of diversion to the place of use.

(37) "Submerged Land" means land lying below the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.

(38) "Submersible Land" means land lying above the line of ordinary low water and below the line of ordinary high water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.

(39) "Trust Land" is land granted to the state upon its admission into the Union, or obtained by the state as the result of an exchange of Trust Land, or obtained in lieu of originally granted Trust Land, or purchased with trust funds, or obtained through foreclosure of loans using trust funds.

(40) "Use" means an activity on state-owned Trust and Non-Trust Land that requires an easement under these rules.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490 & 758.010
Hist.: DSL 6-2000, f. 8-11-00, cert. ef. 9-1-00; DSL 7-2002, f. 12-23-02, cert. ef. 1-1-03; DSL 4-2008, f. & cert. ef. 10-15-08

141-122-0040

Easement Application Requirements

(1) Except as provided by OAR 141-122-0010(4) (Purpose and Applicability) and 141-122-0100 (Easements Issued on Common School Forest Land), any person wanting to use state-owned land for any of the purposes described in OAR 141-122-0010(2) and (3) must:

(a) Apply to the Department for the easement using a form provided by the Department; and

(b) Submit a non-refundable application fee as provided in OAR 141-122-0040(3) payable to the Department to cover the administrative costs of processing the application and issuing the authorization. When applying for an easement for a structure or facility necessary for the use of water as described in OAR 141-122-0105, a person may submit to the Department a copy of their application to the Department of Water Resources for a right to use water in lieu of using the Department's easement application form.

(2) Unless otherwise exempt under the provisions of OAR 141-122-0010(4) (Purpose and Applicability), each individual use of, or development placed on state-owned land must be authorized by a separate easement specifically authorizing only that use or development.

(a) With regard to fiber optic cables, each single empty conduit, or single conduit containing one fiber optic cable, or every fiber optic cable placed within a conduit after the first fiber optic cable has been installed is an individual use subject to authorization by an easement.

(b) With regard to electric power transmission lines, one transmission line with one or more circuits will constitute an individual use subject to authorization by an easement. Additional parallel transmission lines owned by the same entity with one or more circuits may be included in the same individual use so long as such parallel lines are located within the designated boundaries of the easement.

(3) Except as provided by OAR 141-122-0105 (Structures or Facilities Necessary for the Use of Water), the application fee for all easements is \$750. The application fee for all structures or facilities necessary for the use of water on submerged land subject to an easement is \$125.

(4) A single easement application form may be used to request:

(a) Multiple easements required for a single pipeline, cable, or similar use or development which cross one or more parcels of state-owned land,

(b) An easement for all state, county or city-owned bridges within a single county, or

(c) An easement for one or more identical uses or developments which cross the same parcel of state-owned land or state-owned waterway, for example, two parallel pipelines.

(5) Unless otherwise allowed by the Director in writing, a fully completed application must [shall] be submitted to the Department at least 60 calendar days prior to the proposed use or placement of a development subject to easement on state-owned land.

(6) Any person holding a valid easement (other than a permanent easement) granted by the Department prior to the adoption of these rules who wants to continue holding the authorized area following the expiration of the easement for a use subject to easement must:

(a) Unless otherwise allowed by the Director, apply to the Department for a new easement and pay the required application fee 180 calendar days prior to the expiration of the easement as provided in OAR 141-122-0040(1); and

(b) Pay the compensatory payment required by OAR 141-122-0060 at such time that the Department has reviewed and approved the easement application request pursuant to OAR 141-122-0050(7) and (8).

ADMINISTRATIVE RULES

Stat. Auth.: ORS 273.045
Stats. Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010
Hist.: DSL 6-2000, f. 8-11-00, cert. ef. 9-1-00; DSL 7-2002, f. 12-23-02, cert. ef. 1-1-03; DSL 4-2008, f. & cert. ef. 10-15-08

141-122-0050

Easement Application Review and Approval Process

(1) Upon receipt of an application the Department will determine whether it is complete. Applications determined to be incomplete will be returned to the applicant with a written explanation of the reason(s) for rejection.

(2) If a rejected application is resubmitted within 90 calendar days from the date the Department returned it to the applicant, no additional application fee will be assessed.

(3) If determined by the Department to be complete, the application will be circulated to affected local, state, and federal agencies; holders of valid authorizations granted by the Department in the requested area; and other interested persons including tribal governments for review and comment. As a part of this review, the Department will specifically request comments concerning:

(a) The presence, type and location of state or federal listed threatened and endangered species (including candidate species), and archeological and historic resources within the requested area which may be disturbed by the proposed use;

(b) Whether the proposed easement use:

(A) Conforms with other local, state, and federal law and rules;

(B) Conforms with the local comprehensive land use plan and zoning ordinances;

(C) Conforms with the policies described in OAR 141-122-0020 of these rules; and

(D) Would unreasonably impact uses or developments proposed or already in place within the requested area.

(4) The Department may waive the circulation requirement described in OAR 141-122-0050(3) if:

(a) The use or development has been previously reviewed by the listed agencies and other interested persons, and the results are documented in the easement application; or

(b) The application is for an easement associated with the right to use water and the Water Resources Department is conducting/has conducted a public interest review sufficient to make the determinations required by OAR 141-122-0050(3).

(5) An applicant for an easement may be required to amend their application at any time to address issues, concerns, or information needs identified by the Department or other commentors.

(6) After receipt of agency and public comment concerning the proposed use, the Department will determine, and advise the applicant in writing if:

(a) Changes to the requested easement area are necessary to respond to agency or public comment;

(b) Additional information is required from the applicant, including but not limited to a survey of:

(A) State or federal listed threatened and endangered species (including candidate species) within the requested area; and/or

(B) Archeological and historic resources within the requested area.

(c) The request is denied. Applicants will be given the opportunity to revise their proposed project if the Department denies the request; or

(d) The easement will be granted with specific terms and conditions.

(7) If the Department decides to grant the easement, the written notification will also indicate:

(a) The amount of compensation pursuant to the requirements of OAR 141-122-0060 that the applicant must [shall] remit to the Department to obtain the authorization;

(b) Any surety bond amount required by the Department pursuant to the provisions of OAR 141-122-0070(11); and

(c) The easement terms and conditions.

(8) The Department will not grant an easement to an applicant until it has received all fees and compensation specified in these rules, and evidence of a surety bond (if required). However, the Department, at its discretion, may grant a provisional easement prior to receipt of compensation due for removal of timber, sand and gravel, or other natural resources in the easement area if the fair market value of those resources is based on actual receipts from their sale.

(9) The Director may refer unusual or controversial easement applications to the Land Board for review and approval.

(10) If requested by the Department, an applicant must present evidence to the Department prior to placing the use or development that they have obtained:

(a) All authorizations required by local, state, and federal governing bodies to undertake the proposed use or development; and

(b) Any authorization that may be required to obtain access to, or to cross land belonging to a person other than the Department to undertake the use or development.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010
Hist.: DSL 6-2000, f. 8-11-00, cert. ef. 9-1-00; DSL 7-2002, f. 12-23-02, cert. ef. 1-1-03; DSL 4-2008, f. & cert. ef. 10-15-08

141-122-0060

Compensation

(1) Except as provided in OAR 141-122-0060(7), the Department will, prior to granting an easement, require an applicant not otherwise exempt under OAR 141-122-0060(2) or as provided in OAR 141-122-0060(6) to submit to the Department a compensatory payment for each individual crossing or use of state-owned land in the greatest of:

(a) 100 percent of the fair market value of the area requested for the easement if it is on, over or above state-owned upland for uses as defined in OAR 141-122-0010(2) and (3). Fair market value is either:

(A) Determined by an appraisal that is acceptable to the Department and that has been prepared by a:

(i) State-certified appraiser; or

(ii) Salaried public employee of the federal government, the State of Oregon or a political subdivision of the federal government or the State of Oregon while engaged in the performance of the duties of the employee as defined in ORS 674.110(2)(h); or

(B) The county assessor's real market value of the tax lot(s) affected by the easement.

(b) For submerged and submersible lands, compensation is based on 33 1/3 percent of the fair market value of the adjacent riparian tax lots for uses defined in OAR 141-122-0010(2) and (3). Fair market value is either:

(A) Determined by an appraisal that is acceptable to the Department and that has been prepared by a state-certified appraiser; or

(B) The county assessor's real market value of the adjacent riparian tax lots.

(c) \$250; or

(d) The highest comparative compensatory payment.

(2) The following types of easements located on Non-Trust Land are exempt from the mandatory compensatory payment to the Department specified in OAR 141-122-0060(1):

(a) State and county-owned bridges located outside of city limits.

(b) Gas, electric and communication line easements located outside of city limits.

(c) Water ditches; water supply pipes; and water supply mains up to a maximum width of 25 feet on each side of the center line.

(d) Sanitary pressure mains and storm water pipes and outfalls up to a maximum width of 25 feet on each side of the center line.

(e) Any structure or facility necessary for the use of water crossing or situated on state-owned submersible land if:

(A) The withdrawal is authorized by a valid right to use the water; and

(B) The water is used exclusively for irrigation or domestic use.

(3) The Department is limited to \$1.00 per acre consideration for easements on Non-Trust Land for:

(a) Railroad track right-of-way (exclusive of bridges over state-owned submerged and submersible land) up to a maximum width of 50 feet on each side of the center line of the road; and

(b) Railroad stations, depots, and other related facilities (exclusive of bridges over state-owned submerged and submersible land) up to a maximum of 10 acres in any one place.

(4) Compensatory payments shall be required at the rate stipulated in OAR 141-122-0060(1) for that part of an easement for the uses specified in OAR 141-122-0060(2) and (3) which exceeds the maximum widths or acreages indicated, or occurs on:

(a) Trust Land, or

(b) Other land not exempt from a mandatory compensatory payment.

(5) If required by the Department, applicants must also submit to the Department a payment in an amount to be determined by the Department for the fair market value of any commercially valuable timber, sand and gravel, or other natural resources in the easement area which must be removed during or after placement of the proposed use, or which cannot be developed because of the easement use. Such payment shall be due at a date to be determined by the Department.

(6) The Department may, in lieu of a cash compensatory payment, negotiate a non-cash compensatory payment equivalent to or greater than the compensation required under OAR 141-122-0060(1).

(7) Notwithstanding the provisions of OAR 141-122-0060(1), for state, county and city-owned bridges crossing a state-owned waterway on Non-Trust Land, the required compensation will be:

(a) No compensation for a 30-year easement if none of the bridges listed on a single county application submitted by either the Oregon Department of Transportation or any county is located within a city.

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(b) \$100 for a 30-year easement if any bridge listed on a single county application submitted by either the Oregon Department of Transportation or any county is located within a city.

(c) \$100 for a permanent easement for each state, county or city-owned bridge crossing state-owned land if it is located in a city.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490 & 758.010
Hist.: DSL 6-2000, f. 8-11-00, cert. ef. 9-1-00; DSL 7-2002, f. 12-23-02, cert. ef. 1-1-03; DSL 4-2008, f. & cert. ef. 10-15-08

141-122-0070

General Easement Terms And Conditions

(1) Easements shall be offered by the Department for the minimum area determined by the Department to be required for the requested use or development. Unless otherwise authorized by the Director, the minimum width of an easement shall be no less than 15 feet.

(2) The Department may grant additional easements which, as determined by the Department, do not substantially interfere with other authorized easements within a given area.

(3) The Department will, upon request of the applicant, grant permanent easements only for the following uses of state-owned land:

(a) Conservation purposes (conservation easements);

(b) State, county and city-owned bridges if the application contains a full surveyed legal description for each bridge and the appropriate compensation required by these rules;

(c) Water, gas, electric and communication lines; and

(d) Structures or facilities necessary for the use of water as provided in OAR 141-122-0105.

(4) An easement granted by the Department will generally be to a specific person for a specific use, location, and term. The holder of an easement must apply to and obtain prior written approval from the Department as provided in OAR 141-121-0040 prior to:

(a) Changing the authorized use;

(b) Expanding the number of authorized developments or uses;

(c) Changing the authorized area; or

(d) Permitting other persons to utilize the authorized area for uses and developments requiring separate authorization by the Department (for example, attachment of cables, conduits, or pipes under a bridge already authorized by an easement).

(5) State-owned land authorized for a specific use by an easement will remain open to the public for recreational and other non-proprietary uses unless restricted or closed to public entry by the State Land Board or the Department. An easement holder may request the Department to partially restrict or close an easement area to partial or total public use if it can be demonstrated to the Department that:

(a) Public entry on the area encumbered by the easement could cause damage to the use of, or development placed on the authorized area; or

(b) The use of the authorized area could cause harm to the public.

(6) The Department or its authorized representative(s) will have the right to enter into and upon the authorized easement area at any time for the purposes of inspection or management.

(7) Routine right-of-way maintenance including, but not limited to vegetation trimming and the application of state-approved herbicides will be allowed as specified by the easement conditions. However, except as expressly authorized in writing by the Department, an easement holder will not otherwise remove any sand, gravel, or other mineral or natural resources within the authorized area for commercial use or sale.

(8) An applicant for an easement must compensate the Department for the fair market value of any commercially valuable timber, sand and gravel, or other natural resources in the requested area that must be removed during or after placement of the proposed use, or that cannot be developed because of the use or development.

(9) The holder of an easement must conduct all operations within the authorized area in a manner that conserves fish and wildlife habitat; protects water quality; and does not contribute to soil erosion, or the introduction or spread of noxious weeds or pests. Upon completion of construction, disturbed lands shall be reclaimed as specified by the Department.

(10) The holder of an easement must maintain all buildings, pipelines, cables, and other developments or items placed in or on state-owned land in a good state of repair.

(11) Applicants for an easement may be required to obtain:

(a) Insurance, bond or other guarantees of performance required by the Department in the exercise of its reasonable discretion if, in the opinion of the Department, the use constitutes a risk to other users of the area, to public safety, or to the State of Oregon, or if required by Oregon state law. The Department may:

(A) Request that the applicant for, or the holder of an easement provide information concerning the use or development to the Risk Management Division of the Oregon Department of Administrative Services, which may assist the Department in determining the appropriate amount of insurance coverage based on the nature of the use, and

(B) Require that the State of Oregon be named as an additional insured party in any such policy.

(b) A surety bond in an amount to be determined by the Department to ensure that the easement holder will perform in accordance with all terms and conditions of the authorization; or a cash deposit in an amount equal to the amount required for a surety bond.

(12) Easement holders must inspect the condition of the easement area and the developments placed on it on a frequency to be determined by the Department in consultation with the easement holder and other interested parties.

(13) Unless otherwise agreed to in writing in the easement, the holder of an easement which does not have a permanent term must terminate all use, and remove any or all developments or uses placed within the easement area upon expiration or cancellation of the easement. If the holder of the easement refuses to terminate their use or remove their developments, the Department may remove them and charge the holder for doing so.

(14) The holder of an easement must indemnify the State of Oregon and the Department against any claim or costs arising from or related to a release of a hazardous substance on or from the authorized area resulting from the actions or negligence of the easement holder.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490 & 758.010
Hist.: DSL 6-2000, f. 8-11-00, cert. ef. 9-1-00; DSL 7-2002, f. 12-23-02, cert. ef. 1-1-03; DSL 4-2008, f. & cert. ef. 10-15-08

141-122-0080

Assignment of Easements

(1) An easement in good standing is assignable. Prior written consent of the Department is required prior to any assignment of the easement. No transfer may increase the burden on the estate or detract from the value of the underlying state land.

(2) The holder of an easement wanting to assign their easement must submit to the Department:

(a) Notice of proposed assignment on a form provided by the Department at least 60 calendar days prior to the date that the assignment is to occur; and

(b) Non-refundable assignment processing fee of \$750 payable to the Department.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490 & 758.010
Hist.: DSL 6-2000, f. 8-11-00, cert. ef. 9-1-00; DSL 7-2002, f. 12-23-02, cert. ef. 1-1-03; DSL 4-2008, f. & cert. ef. 10-15-08

141-122-0090

Termination of an Easement

(1) With the exception of permanent easements, the Department may terminate any easement:

(a) If there is no use of, or development placed on the easement area for five consecutive years;

(b) If the easement is for a structure or facility necessary for the use of water on state-owned submerged and submersible land and the associated right to use water is cancelled by the Oregon Water Resources Department or abandoned by the easement holder. Upon such termination, the Department will notify the easement holder in writing using the last known address reported by the easement holder to the Department. This notification will state that the easement has terminated, and that the easement holder will have 30 calendar days from the date of the notice to respond in writing to the Director why the easement should be reinstated. The Director will notify the easement holder in writing of his/her decision within 60 calendar days of receipt of the request for reinstatement of the easement; or

(c) If the holder of the easement fails to comply with these rules or the terms and conditions of the easement, or violates other laws covering the use of their authorized area, the Department will notify the holder of the easement in writing of the default and demand correction within a specified time frame. If the holder of an easement fails to correct the default within the time frame specified, the Department may:

(A) Modify or terminate the easement;

(B) Request the Attorney General to take or cause to be taken appropriate legal action against the holder of the easement; or

(C) Invoke other remedies as provided in OAR 141-122-0130.

(3) Notwithstanding the provision of OAR 141-122-0090(1), the Department will not terminate an easement that is not permanent if the holder of the easement is ready, but unable to commence the requested use within the five year period due to their inability to obtain other required authorizations within the five year period.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490 & 758.010
Hist.: DSL 6-2000, f. 8-11-00, cert. ef. 9-1-00; DSL 7-2002, f. 12-23-02, cert. ef. 1-1-03; DSL 4-2008, f. & cert. ef. 10-15-08

ADMINISTRATIVE RULES

141-122-0100

Easements Issued on Common School Forest Land

(1) The Oregon State Forester may issue an easement not to exceed a term of ten years on certified Common School Forest Land in accordance with applicable statutes and administrative rules.

(2) Such easements may be issued by the Oregon State Forester for uses such as, but not limited to:

- (a) Use of roads for forest management purposes;
- (b) Constructing, improving and/or maintaining temporary roads, including spur roads;
- (c) Constructing landing sites to deck timber;
- (d) Use of stumps and/or trees for guylines and tailholds;
- (e) Extracting sand, gravel, or quarry rock for the improvement, construction or maintenance of state-owned roads; and
- (f) Use of existing roads for forest management purposes.

(3) Any person wanting to obtain an easement on certified Common School Forest Land must apply directly to the Oregon Department of Forestry.

(4) Any person wanting to obtain an easement on Common School Forest Land for the uses or developments described in OAR 141-122-0010(2) and (3), must apply to the Department pursuant to these rules.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490 & 758.010
Hist.: DSL 6-2000, f. 8-11-00, cert. ef. 9-1-00; DSL 7-2002, f. 12-23-02, cert. ef. 1-1-03; DSL 4-2008, f. & cert. ef. 10-15-08

141-122-0105

Easements For Structures and Facilities Necessary for the Use of Water

(1) Except as otherwise provided in OAR 141-122-0105(2), an easement is required for all structures and facilities placed on Trust or Non-Trust Land managed by the Department that are necessary for the use of water.

(2) An easement is not required for those parts of structures and facilities necessary for the use of water placed on state-owned submersible land managed by the Department if the:

- (a) Owner of the structures and facilities holds a valid right to use the water, and
- (b) Water is used exclusively for domestic and irrigation purposes.
- (3) Persons who own, use, have placed, intend to place, or have the legal authority to represent the owners or users of structures and facilities necessary for the use of water subject to an easement must apply to the Department for an easement on a form provided by the agency. The applicant must include with the application a non-refundable application fee in the amount of \$125 payable to the Department to cover the administrative costs of processing the application and issuing the easement.
- (4) An application received by the Department for an easement for a structure or facility necessary for the use of water will be processed pursuant to the provisions of OAR 141-122-0050 and 141-122-0060 (as applicable) of these rules.

(5) The Department will allow a person to include up to three water pipelines and associated fixtures per lot of record on their application for an easement.

(6) An easement issued by the Department under this section will have the same term as that of the associated right to use the water as determined by the Oregon Water Resources Department. Land Board approval will not be required for an easement granted under this section.

(7) The Department may enter into an agreement with the Oregon Water Resources Department to consolidate the processing of easements for structures or facilities necessary for the use of water with the processing of a right to use water.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490 & 758.010
Hist.: DSL 7-2002, f. 12-23-02, cert. ef. 1-1-03; DSL 4-2008, f. & cert. ef. 10-15-08

141-122-0110

Unauthorized Uses and Penalties

(1) Uses and developments not authorized by an easement issued by the Department, or by another agency as a valid existing right of record on land acquired by the Department, constitute a trespass and must be removed as directed unless otherwise authorized in writing by the Department.

(2) In addition to any other penalties provided or permitted by law, the use or placement of any development on state-owned land without the required Department authorization as described in these rules, or which is otherwise not in compliance with these rules, will constitute a trespass and be prosecuted pursuant to governing law.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010
Hist.: DSL 6-2000, f. 8-11-00, cert. ef. 9-1-00; DSL 7-2002, f. 12-23-02, cert. ef. 1-1-03; DSL 4-2008, f. & cert. ef. 10-15-08

141-122-0120

Reconsideration of Decision

An applicant or any person adversely affected by the issuance or denial of an easement by the Department may request the Director or the State Land Board, depending on which entity made the decision, reconsider the decision. A request for reconsideration must be filed in compliance with ORS 183.482 or 183.484.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010
Hist.: DSL 6-2000, f. 8-11-00, cert. ef. 9-1-00; DSL 7-2002, f. 12-23-02, cert. ef. 1-1-03; DSL 4-2008, f. & cert. ef. 10-15-08

141-122-0130

Enforcement Actions; Civil Penalties and Other Remedies

(1) The Department may:

(a) Conduct field inspections to determine if uses of, and developments on, in or over state-owned submerged and submersible land are authorized by, or conform with the terms and conditions of an easement and, if not,

(b) Pursue whatever remedies are available under law to ensure that any use that is in violation of the terms or conditions of an easement is either brought into compliance with the requirements of these rules or other applicable law, or removed.

(2) In addition to any other penalty or sanction provided by law, for uses subject to easement located on state-owned submerged and submersible land, the Director may assess a civil penalty of not more than \$1,000 per day of violation for the following:

(a) Violations of any provision of OAR 141-122 or ORS 273 or 274; or

(b) Violations of any term or condition of a written authorization granted by the Department under ORS 273 and 274.

(3) The Director will give written notice of a civil penalty incurred under OAR 141-122-0130(2) by registered or certified mail to the person incurring the penalty. The notice will include, but not be limited to the following:

- (a) The particular section of the statute, rule or written authorization involved;
- (b) A short and clear statement of the matter asserted or charged;
- (c) A statement of the party's right to request a hearing within 20 calendar days of the notice;
- (d) The time allowed to correct a violation; and
- (e) A statement of the amount of civil penalty which may be assessed and terms and conditions of payment if the violation is not corrected within the time period stated.

(4) The person incurring the penalty may request a hearing within 20 calendar days of the date of service of the notice provided in OAR 141-122-0130(3). Such request must be in writing. If no written request for a hearing is made within the time allowed, or if the party requesting a hearing fails to appear, the Director may make a final order imposing the penalty.

(5) In imposing a penalty under OAR 141-122-0130 of these rules, the Director will consider the following factors as specified in ORS 274.994:

- (a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;
- (b) Any prior violations of statutes, rules, orders and authorizations pertaining to submerged and submersible land;
- (c) The impact of the violation on public trust uses of commerce, navigation, fishing and recreation; and
- (d) Any other factors determined by the Director to be relevant and consistent with the policy of these rules.

(6) Pursuant to ORS 183.090(2), a civil penalty imposed under OAR 141-122-0130 will become due and payable 10 calendar days after the order imposing the civil penalty becomes final by operation of law or on appeal.

(7) If a civil penalty is not paid as required by OAR 141-122-0130, interest will accrue at the maximum rate allowed by law from the date first due.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010
Hist.: DSL 4-2008, f. & cert. ef. 10-15-08

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Department of Veterans' Affairs
Chapter 274

Rule Caption: Veterans' Small Business Repair Loan Program.

Adm. Order No.: DVA 6-2008

Filed with Sec. of State: 9-30-2008

Certified to be Effective: 10-1-08

Notice Publication Date: 9-1-2008

ADMINISTRATIVE RULES

Rules Adopted: 274-013-0000, 274-013-0010, 274-013-0020, 274-013-0030, 274-013-0040, 274-013-0050, 274-013-0060, 274-013-0070

Subject: OAR chapter 274, division 013 is promulgated to carry out the provision of 2008 Oregon Laws chapter 18 as enacted by the Oregon Legislative Assembly through House Bill 3626 Sections 19 and 20. These rules constitute the Department's Veterans' Small Business Repair Loan Program (the "Program"). The purpose of this Program is to assist a veteran whose small business, due to the veterans' absence, incurred a significant setback during the veterans' mobilization or deployment by providing an interest-free loan to the veteran upon the veteran's return from mobilization or deployment. Unremarried surviving spouses of veterans who who are deceased as a result of their mobilization or deployment are also eligible to apply for a loan through this Program.

Rules Coordinator: Herbert D. Riley—(503) 373-2055

274-013-0000

Purpose and Objective

(1) OAR chapter 274, division 013 is promulgated to carry out the provisions of 2008 Oregon Laws chapter 18 as enacted by the Oregon Legislative Assembly through House Bill 3626 §§19 and 20, effective February 11, 2008 (the "Act"). These rules, related documents and relevant determinations by the Department constitute the Department's Veterans' Small Business Repair Loan Program (the "Program"). The Program is intended, inter alia, to facilitate the delivery of appropriate financial assistance to eligible veterans and to the unremarried surviving spouses of veterans who are deceased as a result of their mobilization or deployment as provided herein.

(2) Funds appropriated for the Program by the Oregon Legislative Assembly through 2008 Oregon Laws chapter 16 (Senate Bill 5556 §48) or otherwise are, consistent with House Bill 3626 §20, deposited in the Veterans' Small Business Repair Loan Fund (the "Fund") established in the State Treasury, separate and distinct from the General Fund. The Department will use Fund moneys consistent with this division for the purpose of providing interest-free loans to qualified applicants whose small businesses incur setbacks during the relevant veteran's mobilization or deployment.

Stat. Auth.: 2008 OL Ch. 18 & ORS 406.005

Stats. Implemented: 2008 OL Ch. 18

Hist.: DVA 6-2008, f. 9-30-08, cert. ef. 10-1-08

274-013-0010

Definitions

For the purposes of OAR chapter 274, division 013, the following terms have the following meanings, unless the context clearly indicates otherwise:

(1) "Act" means 2008 Oregon Laws, chapter 18 as enacted by the Oregon Legislative Assembly through House Bill 3626 §19 and 20, effective February 11, 2008.

(2) "Applicant" means any Veteran (individually or with his or her spouse) or Surviving Spouse applying for a Program loan from the Department on behalf of a Small Business in which the Applicant owns a Controlling Interest.

(3) "Borrower" means any successful Applicant, and/or the Small Business in which such successful Applicant owns a Controlling Interest, approved for and provided a Program loan from the Fund by the Department.

(4) "Collateral" means property subject to a security interest, security agreement, or otherwise pledged to the Department's satisfaction for the repayment of a Program loan.

(5) "Controlling Interest" means more than 50 percent ownership (whether individually by a Veteran or a Surviving Spouse or jointly by a Veteran and his or her spouse) of a Small Business for which a Program loan is sought.

(6) "Department" means the Department of Veterans' Affairs created under ORS 406.005.

(7) "Deployment" means an act in which an individual was ordered to active military duty on behalf of the United States of America and was deployed outside the United States as defined in the Act.

(8) "Director" means the Director of the Department of Veterans' Affairs.

(9) "Equity" means unencumbered and unpledged cash, real property or personal property owned or controlled to the Department's satisfaction by an Applicant or the Small Business in which the Applicant owns a Controlling Interest and committed to the Department's satisfaction for use in the Project for which a Program loan is being sought by the Applicant.

The valuation of such Equity shall be subject to determination by the Department in its reasonably conservative discretion.

(10) "Funds" means moneys available to the Veterans' Small Business Repair Loan Program from the Fund.

(11) "Mobilization" means an act which an individual left his or her home station and was transferred to a mobilization site for federal service as defined in the Act.

(12) "Person" means any individual, association of individuals, joint venture, partnership, corporation, limited liability company, sole proprietorship or other legal entity.

(13) "Project" means the repair, rehabilitation, operation or maintenance of a Small Business.

(14) "Setback" means a material business disruption incurred by a Small Business due to the Veteran's Mobilization or Deployment as determined by the Department.

(15) "Small Business" means a business that:

(a) Is a corporation, partnership, sole proprietorship or other legal entity licensed and located in Oregon and formed for the purpose of making a profit, and that is independently owned and operated from all other businesses; and

(b) Employs 50 or fewer persons.

(16) "Surviving Spouse" means the unremarried surviving spouse of a Veteran deceased as a result of the Veteran's Mobilization or Deployment.

(17) "Veteran" means an individual who (by himself or herself, or jointly with a spouse) owns a Controlling Interest in a Small Business and who, at the time of the individual's Mobilization or Deployment, is:

(a) A member of the Oregon National Guard; or

(b) A member of the reserves of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States and a resident of Oregon.

(18) "Veterans' Small Business Repair Loan Program" means these rules, related documents and relevant determinations by the Department, which are designed to assist any Veterans in addressing Setbacks to their Small Businesses due to the Veteran's Mobilization or Deployment.

Stat. Auth.: 2008 OL Ch. 18 & ORS 406.005

Stats. Implemented: 2008 OL Ch. 18

Hist.: DVA 6-2008, f. 9-30-08, cert. ef. 10-1-08

274-013-0020

Eligibility

(1) To be eligible for a Program loan, an Applicant must satisfy the definition of Applicant given in OAR 274-013-0010 and meet the following criteria:

(a) The Applicant must own a Controlling Interest in a Small Business;

(b) The Small Business must have incurred a Setback due to the relevant Veteran's Mobilization or Deployment. The Department may consider factors including, but not limited to the following in determining whether or not a Small Business has incurred a Setback:

(A) Whether or not the Small Business has experienced a material diminution or loss of income, customers, suppliers, operational integrity, relative competitive position or good will;

(B) Whether or not the Small Business has experienced an extraordinary depreciation in or loss of goods or capital; and

(C) Whether or not any factor identified in Subparagraphs (A) or (B) occurred during the relevant Veteran's Mobilization or Deployment or as a demonstrable consequence of such Mobilization or Deployment.

(c) The Applicant must apply to the Department for a Program loan within 12 months after the relevant Veteran's Demobilization or the date upon which the relevant Veteran would have been Demobilized but for his or her demise while on active duty.

(d) The relevant Veteran must have been discharged under honorable conditions or been eligible for honorable discharge at the time of his or her demise while on active duty.

(2) To be eligible for a Program loan, an Applicant also must complete and deliver to the Department an application, including other information and documents as required by the Department, in a manner consistent with Program requirements.

Stat. Auth.: 2008 OL Ch. 18 & ORS 406.005

Stats. Implemented: 2008 OL Ch. 18

Hist.: DVA 6-2008, f. 9-30-08, cert. ef. 10-1-08

274-013-0030

Application Procedure

(1) The Department may, from time to time, identify forms to be completed by Applicants and require such additional information or performance with respect to any application as it deems appropriate.

(a) The Department may require an Applicant to pay an application fee of not more than \$250 to recompense the Department for its reasonable expenses in processing the application.

(b) The Department may require an Applicant to enroll in and successfully complete a business management program.

ADMINISTRATIVE RULES

(c) The Department may require an Applicant to complete a business plan, including identification of the Applicant's proposed use of the requested Program Loan and demonstration of the ability to repay the Program loan.

(2) Each Applicant must certify in a manner acceptable to the Department that they satisfy the eligibility requirements provided in OAR 274-013-0020(1).

(3) The Department may deny applications that are incomplete or otherwise inconsistent with Program requirements, including those where an Applicant has failed to satisfy any requirements to completion of a business management program or to complete a business plan. The Department will provide notice of such a denial to an Applicant at the address listed in the application.

(4) The Department may suspend consideration of an application during such periods when it has requested and is awaiting additional information or performance from the Applicant.

(5) The Department may limit or refuse to accept applications depending upon Funds availability.

(6) The Department may consider applications in such order as it deems appropriate. The Department may consider factors including, but not limited to the following in prioritizing its consideration of applications:

- (a) When the application was made;
- (b) The apparent need for a Program Loan;
- (c) The amount of the requested Program Loan;
- (d) The potential for ongoing business disruption;
- (e) Compliance by the Applicant with requests for information or performance; and
- (f) The accuracy and completeness of the application.

(7) In determining whether or not to approve or deny a requested Program loan (in whole or in part), the Department may consider factors including, but not limited to the following:

- (a) The eligibility of the Applicant;
- (b) Factors identified above in Subparagraph (6);
- (c) The feasibility of the proposed Project;
- (d) The likelihood and timeliness of loan repayment;
- (e) Cooperation with and the results of any loan due diligence, including credit checks and appraisals;

(f) The willingness to provide, and the value of, any loan Collateral; and

(g) The availability of Funds.

(8) Upon completion of its review the Department may, in whole or in part, approve or deny the application. The Department will provide the Applicant notice of its determination at the address identified in the application. Notwithstanding anything stated in an application approval, any application approval is subject to the Applicant or Small Business successfully passing, to the Department's satisfaction, such credit checks and other due diligence as the Department may require or perform. Furthermore, and notwithstanding anything stated in an application approval, any application approval also is subject to the Applicant and Small Business (together with such guarantors as may be required by the Department) executing, recording and delivering such documents and instruments as the Department may require.

Stat. Auth.: 2008 OL Ch. 18 & ORS 406.005
Stats. Implemented: 2008 OL Ch. 18
Hist.: DVA 6-2008, f. 9-30-08, cert. ef. 10-1-08

274-013-0040

Loan Conditions

(1) Before providing a Program loan, the Department may require or perform such further credit checks and other due diligence as it deems appropriate. The Applicant and proposed Borrower must cooperate to the Department's satisfaction with respect to such credit checks and other due diligence.

(2) The Department may require that the Borrower and others execute, record and deliver such documents, including such representations, covenants and warranties, as the Department deems appropriate. The Borrower must cooperate fully with such document requirements.

(3) The Department may require such Collateral requirements as it deems appropriate. The Borrower and others shall provide such assurances of Collateral as the Department may require.

(4) The Department may require the payment of a loan fee of not more than one and one-half percent of the amount of the loan to recompense the Department for its costs of loan administration.

(5) Notwithstanding any Program loan commitments by the Department, all Program loans are subject to the availability of Funds as reasonably determined by the Department.

(6) The initial amount of any Program loan shall not exceed \$20,000. The total amount of Funds loaned to any Applicant or Borrower shall not exceed \$40,000.

(7) The Department may, in its reasonable discretion, disburse the proceeds of an approved loan in such amounts and at such times as the Department deems appropriate to ensure that loan proceeds are used for Project purposes and to preserve the integrity of the Fund. If the Department determines that the financial condition of the Borrower has deteriorated, the Department may suspend or terminate further Program loan disbursements. The Department also may exercise any other remedy available to it in law, contract or otherwise.

(8) The Borrower must abide by all laws and regulations applicable to the Project and provide evidence satisfactory to the Department of its receipt of all applicable federal, state and local permits and licenses before the Department will make any disbursement of Program loan Funds. The Borrower also shall fully and timely perform all Program loan obligations, including as provided in any Program loan documents. The Department may suspend, terminate or exercise any other remedy with respect to its Program loan upon a determination by the Department of any default or other failure of performance by the Borrower, including but not limited to any failure of timely completion of the Project, misallocation of Program loan funds or failure to make timely Program loan repayments.

(9) The Department may take such action as it deems appropriate in the review and enforcement of a Project or of a Program loan, including but not limited to entry onto Project property, inspection of a Project and review and copying of any Borrower documents with respect to a Project. The Borrower shall cooperate fully with the Department in such review and enforcement efforts and agrees to allow Project inspection and review and copying of Project documents as the Department deems appropriate.

(10) At the request of the Department, the Borrower will provide to the Department annual financial statements; copies of tax returns and other requested documents. The Department may require additional financial information or more frequent financial statements.

Stat. Auth.: 2008 OL Ch. 18 & ORS 406.005
Stats. Implemented: 2008 OL Ch. 18
Hist.: DVA 6-2008, f. 9-30-08, cert. ef. 10-1-08

274-013-0050

Loan Documents

(1) Program loan documents may contain such provisions as the Department deems appropriate, including but not limited to terms with respect to Program loan disbursements, Collateral, repayment, remedies, late fees and interest, collection charges, attorneys fees and costs and post-judgment interest.

(2) The Department may charge Borrowers for appropriate administrative costs, collection fees, late fees and attorney fees, as well as interest charges on the foregoing, and post-judgment interest.

Stat. Auth.: 2008 OL Ch. 18 & ORS 406.005
Stats. Implemented: 2008 OL Ch. 18
Hist.: DVA 6-2008, f. 9-30-08, cert. ef. 10-1-08

274-013-0060

Administrative Review

(1) Any Person adversely affected by a Department determination with respect to this Program, unless controlled by relevant loan documents, may request review of such determination by the Department's Director. The Director, or the Director's designee, will undertake such review as he or she deems appropriate. The Director, or the Director's designee will endeavor to provide a written response within 30 days of receipt of the requested review.

(2) Any request for modification of any provision with respect to a Program loan must be made in writing to the Department. No Program loan modification or waiver of any term shall be effective unless in a signed writing by the Director.

(3) If the Director consents to any requested modification, the Department may require the Borrower to pay for related costs, including but not limited to all costs of modifying or amending any loan documents, filings, recordings or financing statements.

Stat. Auth.: 2008 OL Ch. 18 & ORS 406.005
Stats. Implemented: 2008 OL Ch. 18
Hist.: DVA 6-2008, f. 9-30-08, cert. ef. 10-1-08

274-013-0070

Waiver of Rules

The Department may waive or modify any requirements of OAR 274, division 013, in order to achieve substantial justice and the purposes of the Program unless such waiver or modification would violate applicable federal or state law.

Stat. Auth.: 2008 OL Ch. 18 & ORS 406.005
Stats. Implemented: 2008 OL Ch. 18
Hist.: DVA 6-2008, f. 9-30-08, cert. ef. 10-1-08

ADMINISTRATIVE RULES

Economic and Community Development Department Chapter 123

Rule Caption: These rules have been clarified to ensure they are compliant with statute and to clarify rule language.

Adm. Order No.: EDD 31-2008

Filed with Sec. of State: 10-2-2008

Certified to be Effective: 10-3-08

Notice Publication Date: 9-1-2008

Rules Adopted: 123-042-0038

Rules Amended: 123-042-0020, 123-042-0026, 123-042-0036

Subject: The administrative rule change clarifies rule language for compliance with statute. It also revises language to ensure that rules are clearly understood.

Rules Coordinator: Janelle Lacefield—(503) 986-0036

123-042-0020

Definitions

As used in this OAR 123 division 42 all capitalized terms have the meanings set forth below, unless the context clearly indicates otherwise.

(1) "Award" means the department's determination that the project is eligible for funding and that the department has identified the specified funding type and amount for the activities described in the staff recommendation.

(2) "Award date" means the date of the final department management signature approving the award.

(3) "Department" means the Oregon Economic and Community Development Department.

(4) "Development project" means a project for the acquisition, improvement, construction, demolition, or redevelopment of municipally owned utilities, buildings, land, transportation facilities or other facilities that assist the economic and community development of the municipality, including but not limited to the following type of projects:

(a) Transportation projects

(b) Utility system projects

(c) Buildings, lands or other facility projects including planning project activities that are necessary or useful as determined by the department.

(5) "Direct project management costs" means expenses directly related to a project that are incurred by a municipality solely to support or manage a project eligible for assistance under ORS 285B.410 to 285B.482. Direct project management costs does not include routine or ongoing expenses of the municipality.

(6) "Distressed area" has the meaning given that term by ORS 285A.010(5).

(7) "Eligible commercial jobs project" means a project that creates or retains jobs that are created or retained by businesses selling goods or services in markets for which national or international competition exists.

(8) "Emergency project" means a development project resulting from an emergency as defined in ORS 401.025 to which federal disaster relief has been committed.

(9) "Firm business commitment project" means a project in response to a specific business development, expansion or retention proposal where assistance is necessary to enable the proposal to proceed and where permanent, full-time equivalent jobs will be created or retained. The project shall support industrial development and be consistent with local comprehensive plans and implementing ordinances.

(10) "Fund" means the Special Public Works Fund created by ORS 285B.455.

(11) "Grant" means an award to a municipality of monies that can be used to reimburse eligible project costs. Grant funds are not required to be repaid when contract conditions are met.

(12) "Loan" means debt financing offered to a municipality.

(13) "Marine facility" has the meaning given that term in ORS 285B.410(7)

(14) "Municipality" means an Oregon city, or county, the Port of Portland created by ORS 778.010, a county service district organized under ORS Chapter 451, a district as defined in 198.010, a tribal council of a federally recognized Indian tribe in this state, or an airport district organized under ORS 838, but does not include an ORS 190 entity.

(15) "Planning project" means:

(a) A project related to a potential development project for preliminary, final or construction engineering;

(b) A survey, site investigation or environmental action related to a potential development project;

(c) A financial, technical or other feasibility report, study or plan related to a potential development project; or

(d) An activity that the department determines to be necessary or useful in planning for a potential development project.

(16) "Project" means a development, planning or emergency project

(17) "Rural area" has the meaning given that term in ORS 285B.410(13).

(18) "State revenue bond loan" means a loan funded in whole or part through the sale of state revenue bonds issued by the State of Oregon at the request of the department that are payable from specific revenue sources pledged by a municipality and are not a pledge of the full faith and credit of the State of Oregon.

(19) "Temporary project financing" means non permanent financing, including short term and bridge financing used to finance eligible acquisition, pre-construction and construction costs.

Stat. Auth.: ORS 285B.419 & 285A.075

Stats. Implemented: ORS 285B.410 - 285B.482

Hist.: ED 12-2000, f. 8-9-00, cert. ef. 8-14-00; EDD 7-2001(Temp), f. & cert. ef. 11-6-01 thru 3-29-02; EDD 4-2002, f. & cert. ef. 2-26-02; EDD 5-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 18-2004, f. & cert. ef. 8-2-04; EDD 10-2006, f. & cert. ef. 11-1-06; EDD 13-2008(Temp), f. & cert. ef. 4-9-08 thru 10-5-08; EDD 31-2008, f. 10-2-08, cert. ef. 10-3-08

123-042-0026

Loan and Grant Information

(1) The moneys in the fund shall be used primarily to provide loans to municipalities for projects. Grants may be given only when loans are not feasible due to the financial need of the municipality or special circumstances of a project. The level of loan or grant funding, if any, may be determined by the department on a case-by case-basis. The department shall determine awards in a manner that maximizes the use of available resources and maintains the desired credit standards of the fund according to the following criteria:

(a) Amount requested

(b) Type

(c) Interest rate

(d) Terms and conditions of an award

The department may offer an alternate mix or lower amount of assistance than requested, and it may investigate and recommend other sources of funds for all or part of a proposed project.

(2) Grants:

(a) If the department determines that a project meets the minimum criteria for a grant, the department may make a further determination on the amount of the grant. The maximum grant amount is \$500,000 per project or 85% of allowable project costs, whichever is less. The amount of grant will be based primarily on the number of jobs proposed to be created or retained with a maximum of \$5,000 for each job created or retained. The maximum grant amount will be awarded only in special circumstances as described in the department's adopted policy.

(b) If a grant is for the acquisition and improvement of real property, the maximum grant amount shall not exceed the fair market value of the real property after the improvements have been made or the value placed on the real property and improvements on the assessment rolls, whichever is less.

(c) The department shall receive in accordance with OAR 123 division 70 a copy of the appropriate First Source Hiring Agreement or assurance from the municipality that one will be entered into before the grant is dispersed.

(d) Not less than 60 percent of the grants awarded from the Special Public Works Fund in any biennium shall be used to provide assistance to distressed or rural areas.

(e) The department may not expend more than \$900,000 for grants or direct assistance, if any, for planning projects to municipalities in a biennium.

(f) A development project that qualifies as an eligible commercial jobs project or a firm business commitment project may be eligible to receive a grant. When making a determination to award a grant, the department will apply prudent fiscal management of the fund in order to manage constrained funding resources. In addition to the criteria and process contained in its policies on grant and loan funding, the department shall apply the following minimum criteria for grants:

(A) The department's financial analysis determines that the municipality's borrowing capacity is insufficient to support the amount of the loan requested for the project;

(B) Jobs will be created or retained as a result of the grant being awarded; and

(C) The department has received confirmation that the firm business commitment or the eligible commercial jobs project will not occur, or that the jobs will be lost, if the municipality does not receive a grant.

(3) Loans:

(a) Maximum loan amount for a project will be based on the department's financial and credit analysis of the municipality's capacity to repay, the availability of moneys in the fund, and prudent fund management. Projects that the department determines are not financially feasible, or loans that cannot be adequately secured, will not be funded.

ADMINISTRATIVE RULES

(b) When the department makes a loan to finance temporary project financing, all of the following apply:

(A) The municipality must receive a loan before project construction begins

(B) The municipality must be able to document to the department's satisfaction that it followed all applicable governing laws and regulations, including prevailing wage, procurement, or similar other requirements that would apply to the contracted project when using the Special Public Works Fund.

(C) The award will consist of loan only, and will not exceed the cost of the project;

(D) The term of the loan cannot exceed 2.5 years (30 months) from the date the contract is executed; and

(E) The repayment terms of the loan can include deferred repayment of principal and/or interest for the term of the loan.

(c) Of a marine facility project authorized under ORS 777.267, assistance from the fund shall only be a loan that may not exceed the amount of the required local match.

(d) A development project may receive loan funding as follows:

(A) The term is limited to the usable life of the contracted project, or 25 years from the year of project completion, whichever is less.

(B) The interest rate on a loan will be based on market conditions for similar debt, and will be set at the time of the award.

(C) The interest rate on a state revenue bond loan will be equal to the coupon rates on the bonds. Until the state revenue bonds are sold, the municipality will pay interest on the outstanding principal balance of the loan at the rate established by the department.

(e) The maximum loan amount per project is \$9,000,000, of which not more than \$3,000,000 may be in the form of a direct loan. A direct loan is a loan that is not a state revenue bond loan. Awards for loan funding of \$3,000,000 and above must be approved by Oregon Economic and Community Development Commission.

(f) The loan shall be a full faith and credit obligation, which is payable from any taxes that the municipality may levy within the limitations of Article XI, Sections 11 and 11b, of the Oregon Constitution and all legally available funds of the municipality. Additional pledges of revenue or other collateral may also be required and may include, but are not limited to:

(A) Specific revenues of the municipality may also be required to be pledged as security, including revenues of the project, special assessment revenues and other collateral.

(B) If repayment of a loan substantially depends on revenues the municipality will receive from a lessee or payments from a benefiting business, the department will assess the financial capacity of the payor, the adequacy of the security, the financial instrument(s) requiring such payments to the municipality, and any liens, pledge(s), or assignments of collateral from the payor to the municipality. The department may require an assignment of such revenue and collateral from the municipality.

(C) If repayment of the loan substantially depends on a pledge of tax increment revenues from an urban renewal agency to the borrowing municipality, the department's financial analysis will extend to the financial feasibility of the projected revenues and the financial and legal adequacy of the proposed pledge of tax increment revenue.

Stat. Auth.: ORS 285B.419 & 285A.075

Stats. Implemented: ORS 285B.410 - 285B.482

Hist.: EDD 10-2006, f. & cert. ef. 11-1-06; EDD 13-2008(Temp), f. & cert. ef. 4-9-08 thru 10-5-08; EDD 31-2008, f. 10-2-08, cert. ef. 10-3-08

123-042-0036

Project Priorities, and Funding

(1) The department may consider the following priorities when determining a development project's eligibility, including but not limited to:

(a) Projects that help create or retain permanent jobs.

(b) Projects for which a municipality has documented a strong likelihood of creating construction jobs or otherwise promoting or contributing to economic and community development.

(c) Projects for which a municipality has documented substantial local commitment to the project's success.

(d) Projects for which a municipality has documented how the benefits of the project will be preserved over the project life.

(e) Projects which are necessary to protect the public or the environment from health and safety concerns.

(2) The department will may apply the following prioritization process approved by Oregon Economic and Community Development Commission when determining whether to make an award for an eligible development project:

(a) The department will review project concepts and/or project information contained in the project intake form.

(b) Proposed projects that the department determines to be eligible, a high priority and address the goals of the program, will be advanced to the next step. A proposed project that is not advanced will be referred to other

possible funding source(s) or referred back to the proposing municipality for further project development.

(c) High priority projects will be funded on a funds available basis.

Stat. Auth.: ORS 285B.419 & 285A.075

Stats. Implemented: ORS 285B.410 - 285B.482

Hist.: EDD 10-2006, f. & cert. ef. 11-1-06; EDD 13-2008(Temp), f. & cert. ef. 4-9-08 thru 10-5-08; EDD 31-2008, f. 10-2-08, cert. ef. 10-3-08

123-042-0038

Criteria for Special Project Funding

Special types of development projects must meet the following criteria. If the project consists:

(1) Solely of the acquisition of land by the municipality, the land must be identified in the applicable land use or capital plan as necessary for a potential development project or be zoned solely for commercial or industrial use, and a loan for such a project must be repaid if the land that is acquired through the proceeds of the loan is rezoned so as to be no longer zoned for industrial or commercial use.

(2) Of a privately owned railroad, the railroad must be designated by the owner and operator as subject to abandonment within three years, pursuant to federal law governing abandonment of common carrier railroad lines.

(3) Of a telecommunications system, the governing body of the municipality shall adopt a resolution, after a public hearing, finding that the proposed telecommunications system project is necessary and would not otherwise be provided by a for-profit entity within a reasonable time and for a reasonable cost.

(4) Of an energy system, the municipality and the serving utility must execute an ownership and operating agreement for the proposed energy system project. This sub-section does not apply when the energy system project will be located within the recognized service territory of the municipality.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.075 & 285B.410 - 285B.460

Hist.: EDD 31-2008, f. 10-2-08, cert. ef. 10-3-08

Rule Caption: These rules have been clarified to ensure they are compliant with statute and to clarify rule language.

Adm. Order No.: EDD 32-2008

Filed with Sec. of State: 10-2-2008

Certified to be Effective: 10-3-08

Notice Publication Date: 9-1-2008

Rules Amended: 123-043-0010, 123-043-0035, 123-043-0045, 123-043-0055, 123-043-0075

Subject: The administrative rule change clarifies rule language for compliance with statute. It also revises language to ensure that rules are clearly understood.

Rules Coordinator: Janelle Lacefield—(503) 986-0036

123-043-0010

Definitions

As used in this division of administrative rules, the following terms shall have the following meaning, unless the context clearly indicates otherwise:

(1) "DEQ" means the State of Oregon Department of Environmental Quality.

(2) "Department" means the State of Oregon Economic and Community Development Department.

(3) "Director" means the director of the department.

(4) "Facilities" means something that is built or installed to perform some particular function.

(5) "Fund" means the water fund created by ORS 285B.563.

(6) "Grant" means an award to a municipality of monies that can be used to reimburse eligible project costs. Grant funds are not required to be repaid when contract conditions are met.

(7) "Loan" means debt financing provided to a municipality for a project.

(8) "Municipality" means an entity defined in ORS 285B.560(4):

(a) Oregon City;

(b) Oregon County;

(c) District as defined in ORS 198.010;

(d) The Port of Portland created by ORS 778.010;

(e) County service district organized under ORS Chapter 451;

(f) Tribal council of a federally recognized Indian Tribe in Oregon; or

(g) Airport district organized under ORS Chapter 838.

(9) "Non-compliance" means the municipality has received a notice of non-compliance with:

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(a) Drinking water quality standards administered by the Oregon Department of Human Services Public Health Services Drinking Water Program; or

(b) Water quality statutes, rules, orders, or permits administered by DEQ or the Environmental Quality Commission.

(10) "Project" means an activity that is eligible for assistance from the fund as defined in ORS 285B.560(5) and (6).

(11) "State Revenue Bond" means bonds issued by the State of Oregon that are payable from specific revenue sources and are not a pledge of the full faith and credit of the State of Oregon.

(12) "Distressed community" means a community or area identified as distressed by the department under the procedures implementing OAR chapter 123, division 24.

(13) "System" means the interconnected facilities that are required or useful for performing the required function.

(14) "Technical Assistance" means preliminary engineering or planning; legal, financial, and economic investigations, reports and studies to determine the feasibility of a project. Technical Assistance also means required Water Master Plans or Wastewater Facility Studies needed to allow communities to properly plan for the future.

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

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

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

Hist.: EDD 10-1993(Temp), f. & cert. ef. 10-4-93; EDD 7-1994, f. & cert. ef. 4-7-94; EDD 7-2002, f. & cert. ef. 4-26-02; EDD 11-2006, f. & cert. ef. 11-3-06; EDD 14-2008(Temp), f. & cert. ef. 4-9-08 thru 10-5-08; EDD 32-2008, f. 10-2-08, cert. ef. 10-3-08

123-043-0035

Criteria and Limitations for Funding — Non-Technical Assistance Projects

(1) The intent of the Legislature was to provide funding to municipalities to assist in complying with the **Safe Drinking Water Act** and the **Clean Water Act**. Therefore, priority will be given to projects necessary to ensure that municipal water and wastewater systems comply with the requirements of:

(a) Drinking water quality standards administered by the Oregon Department of Human Services Public Health Services Drinking Water Program; or

(b) Water quality statutes, rules, orders, or permits administered by DEQ or the Environmental Quality Commission.

(2) If a municipal water or wastewater system has not been issued a notice of non-compliance by the governing regulatory authority, the department may determine that a proposed project is eligible for assistance upon a finding that one of the following has been met:

(a) A recent letter has been issued by the appropriate regulatory authority, typically the Department of Human Services Drinking Water Program, DEQ, or its contracted agent, which indicates a high probability that the system owner will soon be notified of non-compliance with either the **Safe Drinking Water Act** or the **Clean Water Act**; or

(b) The department deems it reasonable and prudent that an award from the fund will assist in bringing the drinking water, storm water or wastewater system into compliance with the requirements of the **Safe Drinking Water Act**, the **Clean Water Act**, those requirements proposed to take effect within the next two years, or the requirements of other regulatory agencies recognized by the department as having responsibility for the protection of water quality and the supply of clean drinking water.

(3) The department generally will not award funds for any wastewater treatment facility that discharges into water quality limited streams for which DEQ has not yet established Total Maximum Daily Loads. The department will consult with DEQ to determine if the project can be designed and constructed without establishment of Total Maximum Daily Loads. Water quality limited streams are designated by the Oregon Environmental Quality Commission.

(4) The project must be consistent with the acknowledged local comprehensive plan.

(5) The department encourages regionalization whenever feasible.

(6) The department will apply the prioritization process as approved by the Oregon Economic and Community Development Commission when determining whether to make an award for an eligible development project:

(a) The department will review project concepts and/or project information contained in the Project Intake form.

(b) Proposed projects that it determines to be eligible, address the goals of the program and are determined to be a high priority, will be advanced to the next step. Proposed projects that are not advanced will be referred to other possible funding sources or for further project development.

(c) High priority projects will be funded on a funds available basis.

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

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

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

Hist.: EDD 7-2002, f. & cert. ef. 4-26-02; EDD 1-2003(Temp) f. 2-20-03, cert. ef. 2-24-03 thru 6-30-03; EDD 8-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04; EDD 9-2004, f. & cert.

ef. 3-22-04; EDD 11-2006, f. & cert. ef. 11-3-06; EDD 14-2008(Temp), f. & cert. ef. 4-9-08 thru 10-5-08; EDD 32-2008, f. 10-2-08, cert. ef. 10-3-08

123-043-0045

Criteria and Limitations for Funding — Technical Assistance Projects

(1) Awards are available to municipalities with populations of less than 15,000 people for technical assistance. If the project is for a facility plan or study required by a regulatory agency, the municipality is not required to document non-compliance. Other Technical Assistance projects may be considered after consulting with the regulatory agency.

(2) Technical assistance grants and loans are subject to the following limitations:

(a) A grant of up to \$20,000 may be awarded for a project.

(b) A loan of up to \$20,000 may be awarded for a project. Interest shall be at 75 percent of the annual interest rate for other loans made in accordance with the requirements of this OAR chapter 123, division 43. The loan term shall not exceed seven years; and

(c) No more than \$600,000 shall be expended from the fund on technical assistance in any biennium. When awarding a grant under this OAR 123-043-0045 the department will not first consider a municipality's ability to repay a loan. The department may determine the need for a grant due to the "special circumstances" of the project.

(d) The application must meet the requirements listed in OAR 123-043-0075(2).

(3) The loan shall be a full faith and credit obligation which is payable from any taxes which the municipality may levy within the limitations of Article XI of the Oregon Constitution and all legally available revenues and other funds of the municipality. A pledge of specific revenues of the municipality may be pledged in addition to the foregoing.

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

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

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

Hist.: EDD 7-2002, f. & cert. ef. 4-26-02; EDD 1-2003(Temp) f. 2-20-03, cert. ef. 2-24-03 thru 6-30-03; EDD 8-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04; EDD 9-2004, f. & cert. ef. 3-22-04; EDD 11-2006, f. & cert. ef. 11-3-06; EDD 14-2008(Temp), f. & cert. ef. 4-9-08 thru 10-5-08; EDD 32-2008, f. 10-2-08, cert. ef. 10-3-08

123-043-0055

Loan and Grant Information

(1) The department may award financing in a manner that maximizes the use of available resources and maintains the desired credit standards of the fund. The department shall determine the amount, type, interest rate and terms of any financing awarded. It may offer an alternate mix or lower amount of assistance than requested. The amount of the award may be the minimum amount that the department determines is necessary to enable the project to proceed, and the department may investigate and recommend other sources of funds for all or part of a proposed project. Projects that the department determines are not financially feasible will not be funded.

(2) Grants: When making a determination to award a grant, the department will apply prudent fiscal management of the fund in order to manage limited funding resources. In making its determination, the department shall, in addition to the criteria and procedures contained in the department's policies on grant and loan funding, apply the following criteria:

(a) The department's financial analysis determines that the municipality's financial resources, including its borrowing capacity, are insufficient to finance the project;

(b) If applicable, the projected annual residential utility rate for the system is at least equivalent to a minimum rate as determined by the department's policy. The department's policy incorporates the most recent U.S. Census data on median household income and annual adjustments for inflation since the most recent census; and

(c) If applicable, a grant would not cause the total amount of grants made by the department through all its programs to exceed \$10,000 per hookup per project.

(3) The department shall determine if the project meets the minimum criteria of a grant and make a determination on the amount of the grant based on financial need and other circumstances as described in the department's policies. A project in a distressed community may be eligible for a grant not to exceed \$750,000.

(4) Loans:

(a) The term of a loan is limited to the usable life of the contracted project, or 25 years from the year of project completion, whichever is less.

(b) Except as provided elsewhere in OAR chapter 123, division 43, the interest rate on a loan is based on market conditions for similar debt and is set at the time of the award.

(c) The interest rate on a bond funded loan is equal to the coupon rates on the state revenue bonds funding the loan. Until the state revenue bonds funding the loan are sold, the municipality will pay interest at a rate established by the department on loan funds disbursed to the municipality.

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(d) Maximum amount for a loan for a project may be determined by the department on the basis of the department's financial analysis of the municipality's capacity for repaying the debt, the availability of moneys in the fund and prudent fund management as described in the department's adopted policies.

(5) The loan shall be a full faith and credit obligation which is payable from any taxes which the municipality may levy within the limitations of Article XI of the Oregon Constitution and all legally available revenues and other funds of the municipality. A pledge of specific revenues of the municipality may be required by the department to be pledged in addition to the foregoing.

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

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

Hist.: EDD 7-2002, f. & cert. ef. 4-26-02; EDD 1-2003(Temp) f. 2-20-03, cert. ef. 2-24-03 thru 6-30-03; EDD 8-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04; EDD 9-2004, f. & cert. ef. 3-22-04; EDD 11-2006, f. & cert. ef. 11-3-06; EDD 14-2008(Temp), f. & cert. ef. 4-9-08 thru 10-5-08; EDD 32-2008, f. 10-2-08, cert. ef. 10-3-08

123-043-0075

Application Review and Approval

(1) For a non-technical assistance project, the department must make the following determinations:

(a) The municipality shall document that a registered professional engineer has certified in an engineering report, such as a Master Plan, that the proposed project is feasible, is the most cost effective solution, and adequately serves the applicable land uses in both the short and long term;

(b) The loan is secured by the pledge of utility revenues or other revenues or payments from owners of specially benefited properties, and these revenues or payments are sufficient, when considered with other security, to assure repayment of the loan and the municipality has certified to the department that there will be adequate funds available to repay the loans made to the municipality from the fund;

(c) Moneys in the appropriate accounts of the fund are or will be available for the project;

(d) The municipality is willing and able to enter into a contract with the department;

(e) The project is consistent with the requirements governing assistance from the fund. If the Department determines that the municipality or the proposed project does not meet the requirements of this OAR 123-043-0075, the department may reject an application or require further documentation from the municipality; and

(f) The project is ready to begin and the municipality has committed in writing that, if awarded the assistance it shall proceed immediately.

(2) To award assistance from the fund for a technical assistance project, the department must make the following determinations:

(a) The technical assistance activities must be for a project that is eligible under OAR chapter 123, division 43 and meets the criteria listed in OAR 123-043-0045; and

(b) The municipality has, or has demonstrated the ability to secure, the administrative capacity to undertake and complete the project.

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

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

Hist.: EDD 7-2002, f. & cert. ef. 4-26-02; EDD 1-2003(Temp) f. 2-20-03, cert. ef. 2-24-03 thru 6-30-03; EDD 8-2003(Temp), f. & cert. ef. 9-24-03 thru 3-22-04; EDD 9-2004, f. & cert. ef. 3-22-04; EDD 11-2006, f. & cert. ef. 11-3-06; EDD 14-2008(Temp), f. & cert. ef. 4-9-08 thru 10-5-08; EDD 32-2008, f. 10-2-08, cert. ef. 10-3-08

Employment Department Chapter 471

Rule Caption: Allows Training UI participants to submit grades or program completion documentation at the end of each term rather than weekly.

Adm. Order No.: ED 11-2008

Filed with Sec. of State: 9-16-2008

Certified to be Effective: 9-16-08

Notice Publication Date: 8-1-2008

Rules Amended: 471-030-0080

Subject: Enables the agency to transition from a paper-based weekly certification of school attendance for Training UI participants, to a more streamlined monitoring process which is consistent with the agency's UI processes and in compliance with Training UI legal requirements.

Rules Coordinator: Janet Orton—(503) 947-1724

471-030-0080

Professional Technical Training

(1) Professional technical training, as defined in ORS 657.335, shall not be approved by the Director unless the public or private institution, school, or agency offering such program is certified or licensed by the

Oregon State Board of Education, the Superintendent of Public Instruction, Regional Workforce Investment Board, or other Oregon State agency authorized to grant such certification or license or an equivalent state agency in the state where the training is to be provided.

(2) Professional technical training shall not be approved by the Director if the Director finds that the planned curriculum of classes and course activity is less than the equivalent of full-time student status as defined by the training provider. The Director may waive this requirement when such requirement would be inconsistent with the policy set forth in ORS 657.337.

(3) To receive benefits for any week during professional technical training, a dislocated worker who is otherwise eligible for unemployment insurance benefits must:

(a) Submit a written application for approval of professional technical training on forms prescribed or approved for such purpose by the Director, with the Employment Department Benefits Section — UI Training Programs Unit within 90 days of:

(A) Certification as a dislocated worker; or

(B) Termination from the dislocating employment; or

(C) The filing of a claim for unemployment insurance benefits; and

(b) Submit to the Employment Department a timely claim for such week in accordance with procedures established in 471-030-0045(4) of these rules; and

(c) At the end of each term provide to the Employment Department, grades or completion of program documentation, from the training facility which certifies that the claimant was satisfactorily pursuing the approved professional technical training; and

(d) Be in attendance half or more of the scheduled class days during such week unless the days not in attendance will not prevent satisfactory completion of the approved professional technical training.

(4) Decisions of the Director to approve or disapprove an application for course approval or to discontinue such approval for one or more weeks during professional technical training or to approve or deny supplemental benefits under the provisions of ORS 657.335 through 657.360 shall be in writing, shall set forth the reasons therefore, and shall be served upon the claimant by mailing to the claimant's last known address of record with the Employment Department.

(5) As used in ORS 657.335(1):

(a) "Eligible dislocated workers" includes:

(A) For purposes of ORS 657.345(1), any worker attending training financed wholly or in part, or directly delivered by, a recipient or subrecipient administering Title 1B of the Workforce Investment Act of 1998 (P.L. 105-220).

(B) For purposes of ORS 657.345(2), any worker identified as dislocated by the Employment Department under ORS 657.335(1).

(b) "Unlikely to return to their previous occupation or industry" includes the following:

(A) The individual has been identified as meeting the Worker Profiling Program participation threshold developed by the Employment Department, or

(B) The individual has been permanently separated from an employer in an occupation identified as declining by the Employment Department in that geographic area in which the claimant resides, or

(C) The individual has been evaluated and referred to training by a vocational rehabilitation provider, including but not limited to Vocational Rehabilitation Division, Workers Compensation Division, or a private insurance carrier.

(c) "Long-term unemployed" means unemployed from the dislocated occupation for at least 15 of the last 26 weeks or for at least 8 consecutive weeks immediately prior to application (including survival jobs during such period).

(6) In applying the provisions of ORS 657.340, the Director may approve a program of instruction, including transfer credit programs of instruction given at community colleges, leading toward a baccalaureate or higher degree or training that has for its purpose the preparation of persons for employment in occupations which require a baccalaureate or higher degree from institutions of higher education if:

(a) The individual does not have significant transferable skills for other occupations in the statewide labor market;

(b) Unless previously approved in accordance with the provisions of Title 1B of the Workforce Investment Act of 1998 (P.L. 105-220), the individual is within 48 quarter credit hours (or the semester equivalent) from completing the baccalaureate or higher degree; and

(c) Completing the baccalaureate or higher degree offers the best chance of long term employment.

(7) As used in ORS 657.340(2), "attendance in professional technical training" means the period of time beginning with the starting date of the professional technical training and ends with satisfactory completion of the training program. The period of time defined in this section includes customary academic recesses for holidays and between academic terms but

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does not include the customary academic summer recess. For purposes of applying ORS 657.340(2), an individual may be determined not to be in "attendance in professional technical training" as defined in this section if the individual fails to demonstrate satisfactory progress and attendance as defined in section (3) of this rule.

(8) As used in ORS 657.340(3), "terms and conditions" includes "benefit year" as defined in ORS 657.010(3). In applying the provisions of ORS 657.340(3), the benefit year of an eligible dislocated worker may be extended, whether or not the benefit year has expired, if the eligible dislocated worker has not filed a subsequent initial claim establishing a new benefit year.

(9) The determination that an individual meets the definition of dislocated worker may be made by the Employment Department for purposes of paying benefits under ORS 657.335 to 657.360.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657.335 - 657.360

Hist.: IDE 150, f. & ef. 2-9-76; IDE 1-1983(Temp), f. & ef. 3-9-83; IDE 2-1983, f. & ef. 8-12-83; ED 1-1991, f. & cert. ef. 4-1-91; ED 4-1991(Temp), f. & cert. ef. 12-30-91; ED 3-1992, f. & cert. ef. 6-29-92; ED 4-1992(Temp), f. & cert. ef. 10-19-92; ED 1-1993, f. & cert. ef. 3-22-93; ED 4-1994, f. & cert. ef. 9-2-94; ED 1-1996, f. 4-24-96, cert. ef. 4-29-96; ED 5-2000, f. 10-6-00, cert. ef. 10-8-00 thru 4-6-01; ED 5-2001(Temp), f. 4-6-01, cert. ef. 4-7-01 thru 10-4-01; ED 6-2001, f. 4-20-01, cert. ef. 4-22-01; ED 8-2002, f. 11-22-02 cert. ef. 11-24-02; ED 11-2003, f. 7-25-03, cert. ef. 7-27-03; ED 10-2005, f. 12-29-05, cert. ef. 1-1-06; ED 11-2008, f. & cert. ef. 9-16-08

Employment Department, Child Care Division Chapter 414

Rule Caption: Clarifies rules regarding allowable animals in Registered Family Child Care facilities and specifies that notification to parents of presence of animals is required.

Adm. Order No.: CCD 3-2008

Filed with Sec. of State: 10-2-2008

Certified to be Effective: 10-2-08

Notice Publication Date: 9-1-2008

Rules Amended: 414-205-0100

Subject: Prohibits reptiles, frogs, monkeys, hooked beaked birds, baby chicks and ferrets from being present in a Registered Family Child Care facility unless they are housed in and remain in a container/tank which precludes direct contact by children. Allows prohibited animals if handled by zoos, museums and other professional animal handlers. Requires notice of presence of animals in Registered Family Child Care facility be provided to parents.

Rules Coordinator: Janet Orton—(503) 947-1724

414-205-0100

Health

(1) The home must be a healthy environment for children.

(a) No person shall smoke or use smokeless tobacco in the family child care home during the hours the child care business is conducted. No person shall smoke or use smokeless tobacco in motor vehicles while child care children are passengers.

(b) No one shall consume alcohol or use non-prescription controlled substances in the presence of children. No one under the influence of alcohol or non-prescription controlled substances shall be in the home when child care children are present.

(c) There must be at least one flush toilet and one hand-washing sink available to children. Steps or blocks must be available to ensure children can use the toilet and sink without assistance.

(d) The room temperature must be at least 68°F during the hours the child care business is conducted.

(e) Rooms occupied by children must have a combination of natural and artificial lighting.

(f) Floors must be free of splinters, large unsealed cracks, sliding rugs and other hazards.

(2) The provider must have a basic first aid kit available for use. The kit must be kept out of the reach of children.

(3) Infants must be put to sleep on their backs.

(4) Except for mild cold symptoms that do not impair a child's function, children who are ill shall not be in care.

(5) If a child becomes ill in child care, the provider must separate the child from other children, to the extent possible, and contact the child's parent(s) to remove the child from care as soon as possible.

(6) Parents must be notified if their child is exposed to a communicable disease.

(7) Prescription and non-prescription medication may be given to a child only if the provider has written authorization from the parent, as required in OAR 414-205-0130(2).

(8) Prescription and non-prescription medications must be properly labeled and stored.

(a) Non-prescription medications or topical substances must be labeled with the child's name.

(b) Prescription medications must be in the original container and labeled with the child's name, the name of the drug, dosage, directions for administering, and the physician's name.

(c) Medication requiring refrigeration must be kept in a separate, covered container, marked "medication," in the refrigerator.

(9) Parents must be informed daily of any medications given to their child or any injuries their child has had.

(10) The provider must provide or ensure the availability of meals and snacks appropriate for the ages and needs of the children served.

(a) Meals and snacks must be based on the guidelines of the USDA Child Care Food Program.

(b) Foods must be stored and maintained at the proper temperature.

(c) Foods must be prepared and served according to the minimum standards for food handler certification.

(d) Infants must either be held or be fed sitting up for bottle feeding. Propping bottles is prohibited.

(11) Any animal at the family child care home must be in good health and be a friendly companion for the children in care.

(a) Potentially aggressive animals must not be in the same physical space as the children.

(b) Dogs and cats must be vaccinated according to a licensed veterinarian's recommendations.

(12) Animal litter boxes shall not be located in areas accessible to children.

(13) Caregivers must be physically present when children are interacting with animals.

(14) Reptiles (e.g. lizards, turtles, snakes, iguanas, frogs, monkeys, hooked beaked birds, baby chicks and ferrets) are prohibited unless they are housed in and remain in a tank or other container which precludes any direct contact by children. Educational programs that include prohibited animals and are run by zoos, museums and other professional animal handlers are permitted.

(15) Parents must be made aware of the presence of any animals in the child care home.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 1-2008(Temp), f. & cert. ef. 8-6-08 thru 2-2-09; CCD 3-2008, f. & cert. ef. 10-2-08

Rule Caption: Requires that parents be notified of the presence of animals in the Certified Family Child Care Home.

Adm. Order No.: CCD 4-2008

Filed with Sec. of State: 10-2-2008

Certified to be Effective: 10-2-08

Notice Publication Date: 9-1-2008

Rules Amended: 414-350-0190

Subject: Requires Certified Family Child Care Homes to notify parents of the presence of animals within the home.

Rules Coordinator: Janet Orton—(503) 947-1724

414-350-0190

Animals in the Certified Family Child Care Home

(1) Any animal at the certified family child care home must be in good health and show no evidence of carrying a disease.

(a) Dogs and cats must be vaccinated according to a licensed veterinarian's recommendations. Proof of current compliance with immunizations shall be kept on file in the home.

(b) Animals shall be cared for as recommended by a veterinarian. The provider shall have and follow written procedures for the care and maintenance of the animals.

(2) Potentially aggressive animals must not be in the same physical space as the children.

(3) Reptiles (e.g., lizards, turtles, snakes, iguanas), frogs, monkeys, hook-beaked birds, baby chicks, and ferrets are prohibited, unless they are housed in and remain in a tank or other container which precludes any direct contact by children. Educational programs that include prohibited animals and are run by zoos, museums and other professional animal handlers are permitted.

(4) Any animals other than cats and dogs shall be kept in an approved cage for the type of animal. Cages shall have removable bottoms and shall be kept clean and sanitary.

(5) All animals shall be kept away from food preparation surfaces. If animals have access to food preparation surfaces, the surfaces shall be cleaned and sanitized prior to meal preparation.

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(6) Litter boxes shall not be located in any part of the home used by children or for food storage, preparation, or eating.

(7) Caregivers must be physically present when children are interacting with animals.

(8) Handwashing, as specified in OAR 414-350-0160(2)(d) and (e), shall be practiced.

(9) Parents must be made aware of the presence of any animals in the child care home.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260 & 657A.290

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0752; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02; CCD 2-2008(Temp), f. & cert. ef. 8-6-08 thru 2-2-09; CCD 4-2008, f. & cert. ef. 10-2-08

..... Landscape Contractors Board Chapter 808

Rule Caption: Amends direct supervision, adopts fee for Owner/Managing Employee manual & license card reprint and meet new requirements; housekeeping.

Adm. Order No.: LCB 9-2008

Filed with Sec. of State: 9-29-2008

Certified to be Effective: 10-1-08

Notice Publication Date: 7-1-2008

Rules Amended: 808-001-0020, 808-002-0200, 808-002-0328, 808-002-0810, 808-003-0018, 808-003-0045, 808-003-0110, 808-003-0130

Rules Repealed: 808-002-0900

Subject: 808-001-0020 – Lists what a public record request must include and updates charges for specific types of records

808-002-0200 — Remove decorative placement of rock from definition of Casual, Minor or Inconsequential

808-002-0328 — Clarifies direct supervision requirement

808-002-0810 — Removes draining water from an existing irrigation system from the definition of repair of irrigation systems

808-002-0900 — Deletes definition that is no longer used in the statute

808-003-0018 — Explains verification requirement for direct supervision

808-003-0045 — Clarifies that when a license phase is changed, the agency will issue a new license card at not cost; clarifies a landscape contracting business cannot advertise or perform services for which it is not licensed

808-003-0110 — Clarifies the Probationary All Phase Plus Backflow landscape contracting business license must obtain a \$15,000 bond, irrevocable letter of credit or deposit.

808-003-0130 — Adopts charge of \$20 for replacement of license card

Rules Coordinator: Kim Gladwill-Rowley—(503) 378-5909

808-001-0020

Charges for Documents; Refunds

(1) All requests for copies of public records pertaining to the State Landscape Contractors Board and available at the Board's office shall be in writing and may be delivered in person, by mail, by fax or by email. The request must include:

(a) The name and address of the person requesting the public record;

(b) The telephone number or other contact information for the person requesting the public record;

(c) A sufficiently detailed description of the record(s) requested to allow the agency to search for and identify responsive records;

(d) Date of request; and

(e) Signature of the person requesting the public record.

(2) Charges to the general public and to state agencies shall be payable in cash, check, money order, Visa or Mastercard unless billing to such agencies is authorized by the Administrator. Checks or money orders shall be made payable to the Landscape Contractors Board.

(3) The Board accepts Visa and Mastercard submitted in person or by mail, e-mail or fax. Any Visa or Mastercard that is rejected by the bank and requested to be confiscated will be retained and returned to the bank. All payments by Visa or Mastercard that are rejected must be paid in full by a check or money order within ten days from notification of rejection.

(4) Charges for copies, documents, and services shall be as follows:

(a) Twenty-five cents per page for photocopies.

(b) The cost of records transmitted by fax is \$.75 for the first page and \$.60 for each additional page, limited to a 20-page maximum, not including the cover page.

(c) The cost of records transmitted by email is \$5 per email.

(d) Upon request, copies of public records may be provided electronically if the document(s) are stored in the agency's computer system. Disks will be provided at a cost of \$5.00 per disk and may contain as much information as the disk will hold. Due to the threat of computer viruses, the agency will not permit requestors to provide disks for electronic reproduction of computer records.

(e) Actual cost for delivery of records such as postage and courier fees.

(f) Actual attorney fees charged to the agency for the cost of time spent by an attorney in reviewing the public records, redacting materials from the public records or segregating the public records into exempt and nonexempt records.

(g) The agency may require pre-payment of estimated fees before taking further action on a request.

(h) \$20 for each certification that an entity has or has not been licensed with the Landscape Contractors Board.

(i) \$20 for certified copies of documents.

(j) \$100 for listing of individual landscape construction professional contractors or landscape contracting businesses on CD or disk. Requests for searching or formatting the data will be billed as per subsection (e) of this rule. The Administrator may waive this charge for other public agencies.

(k) Labor charges that include researching, locating, compiling, editing or otherwise processing information and records:

(A) No charge for the first 30 minutes of staff time;

(B) Beginning with the 31st minute, the charge per total request is \$30 per hour or \$7.50 per quarter-hour. A prorated fee is not available for less than a quarter-hour;

(l) For both machine copies and documents, an additional amount set at the discretion of the Administrator for staff time required for search, handling, and copying.

(m) \$20 for duplicate recording of Board meetings.

(n) \$20 for duplicate recordings of a three hour agency hearing or arbitration and \$10 for each additional 90 minute or fraction thereof of the hearing or arbitration.

(o) Vehicle Stickers:

(A) Year stickers are \$.50 each;

(B) Set of stickers includes one year sticker and one license sticker and are \$1.00 per set.

(p) Plant CD:

(A) First copy is free to landscape construction professional application;

(B) \$5.00 (this includes shipping & handling).

(q) Landscape Construction book by David Sauter is the cost of the item, the cost of shipping and a fee for the cost of processing the order. Contact the State Landscape Contractors Board for the current charges.

(r) Owner/Managing Employee Study Guide & Manual

(A) \$10 for paper copy; and

(B) \$5 for CD.

(5) Refunds: All requests for refunds must be in writing.

(a) Except as set forth in subsection (b) of this section, applicant and licensing fees are non-refundable and nontransferable.

(b) When an applicant withdraws their renewal or fails to complete the renewal process the agency may retain a-processing fee of \$20. When an applicant withdraws their application for a landscape contracting business license or renewal or fails to complete the licensing process, the agency may retain a-processing fee of \$50.

(6) If the agency receives payment of any fees or penalty by check and the check is returned to the agency by the bank, the payer of the fees will be assessed a charge of \$25 in addition to the required payment of the fees or penalty.

(7) The agency shall not refund fees or civil penalties overpaid by an amount of \$20 or less unless requested by the payer in writing within three years after the date payment is received by the agency, as provided by ORS 293.445.

Stat. Auth.: ORS 183, 293.445, 671 & 2007 OL Ch. 541

Stats. Implemented: ORS 183, 192.430, 293.445 & 671

Hist.: LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 2-1988(Temp), f. 3-17-88, cert. ef. 4-1-88; LCB 4-1988, f. 11-23-88, cert. ef. 12-1-88; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 2-1999, f. & cert. ef. 5-4-99; LCB 4-2002, f. & cert. ef. 12-4-02; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 4-2004(Temp), f. & cert. ef. 6-11-04 thru 12-6-04; LCB 5-2004, f. & cert. ef. 10-4-04; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 7-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 3-2008, f. & cert. ef. 4-11-08; LCB 4-2008(Temp), f. & cert. ef. 4-23-08 thru 9-22-08; LCB 9-2008, f. 9-29-08, cert. ef. 10-1-08

ADMINISTRATIVE RULES

808-002-0200

Casual, Minor, or Inconsequential

"Casual, Minor, or Inconsequential" work, as used in ORS 671.540(3)(c), includes:

- (1) The replacement of trees and nursery stock with varieties that are similar in habit and culture;
 - (2) The replacement of existing lawns;
 - (3) The planting of annuals, perennials and bulbs in existing beds;
 - (4) The replacement of non-concrete landscape edging;
 - (5) In an irrigation system, the replacement of three or fewer malfunctioning sprinkler heads with heads of the same or of a similar type and hydraulic equivalency;
 - (6) In an irrigation system, the adjustment of sprinkler head nozzles; and
 - (7) In an irrigation system, the programming of irrigation controllers.
- (8) "Casual, minor or inconsequential" work does not include the construction of new planting areas or the construction or repair of arbors, decks, driveways, fences, retaining walls, walkways or ornamental water features. "Casual, minor or inconsequential" work does not include the construction of drainage or irrigation systems.

Stat. Auth.: ORS 183.325 - 183.410, 670.310 & 671.670

Stats. Implemented: ORS 671.540

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; LC 2-1984, f. & ef. 10-2-84; LC 1-1985, f. & ef. 7-1-85; LC 1-1986, f. & ef. 1-3-86; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0010; LCB 1-1991, f. & cert. ef. 7-22-91; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LCB 3-1992(Temp), f. & cert. ef. 7-16-92; LCB 1-1993, f. & cert. ef. 1-19-93; LCB 4-1993, f. & cert. ef. 11-1-93; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 1-1998, f. & cert. ef. 2-6-98; LCB 3-1998(Temp), f. & cert. ef. 11-16-98 thru 5-15-99; LCB 1-1999, f. & cert. ef. 2-11-99; LCB 3-1999, f. & cert. ef. 11-17-99, Renumbered from 808-002-0010; LCB 1-2001, f. 12-4-01, cert. ef. 1-1-02; LCB 3-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 9-2008, f. 9-29-08, cert. ef. 10-1-08

808-002-0328

Direct Supervision

"Direct supervision" as used in ORS 671.540(15) and (16), means that a licensed landscape construction professional supervises any unlicensed employee who performs landscaping work such that the employee:

- (1) has had instruction on the project from the landscape construction professional, verbally or in writing;
- (2) knows the landscape construction professional by name;
- (3) knows how to contact the landscape construction professional; and
- (4) can communicate with the landscape construction professional within an hour, and, if unavailable, that landscape construction professional will return the call by end of day to the employee.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.540

Hist.: LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 3-2006, f. & cert. ef. 8-2-06; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 9-2008, f. 9-29-08, cert. ef. 10-1-08

808-002-0810

Repair Ornamental Water Features, Drainage Systems, Irrigation Systems

(1) As used in ORS 671.520(1)(c), "repair" ornamental water features includes, but is not limited to:

- (a) Liner patching;
- (b) Rock and boulder replacement;
- (c) Mortaring; or
- (d) Pump replacement.

(e) Repair of ornamental water features does not include draining, cleaning or refilling ornamental water features.

(2) As used in ORS 671.520(1)(c), "repair" drainage systems includes, but is not limited to:

- (a) Patching; or
- (b) Replacement of piping, fittings and filtering materials.

(3) As used in ORS 671.520(1)(c), "repair" irrigation systems includes, but is not limited to:

- (a) Replacing any irrigation water line;

(b) Disassembling and replacing the internal parts of backflow assembly when performed pursuant to ORS 447.060(3).

(c) Repair of irrigation systems does not include replacing three or fewer sprinkler heads with the same or similar type and hydraulic equivalency sprinkler heads, adjusting sprinkler head nozzles; or programming irrigation controls.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: 2005 OL Ch. 609

Hist.: LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 9-2008, f. 9-29-08, cert. ef. 10-1-08

808-003-0018

Employment, Change of License Phase, Supervisory Responsibilities

(1) If a landscaping contracting business employs only one licensed landscape construction professional, that licensed landscape construction

professional must hold a license covering each phase of landscaping work that the landscape contracting business offers and must be on the payroll each hour or meet the salary test for salaried, exempt employees during the time the landscape contracting business is performing landscape work related to the landscape construction professional's phase of license.

(2) If a landscape contracting business employs more than one licensed landscape construction professional the combined licenses must cover each phase of landscape contracting that the business offers and the landscape construction professionals must be on the payroll each hour or meet the salary test for salaried, exempt employees during the time the landscape contracting business is performing landscape work related to each landscape construction professionals phase of license.

(3) The licensed landscape construction professional who holds part or wholly the phase basis of the landscape contracting business license must perform the following supervisory services:

(a) Review and initial the landscape plan and written contract for each job;

(b) Attend all on-site meetings and appear at any hearings that are a consequence of any claims filed against the landscape contracting business that relate to the landscape construction professional's phase of license; and

(c) Directly supervise all non-licensed employees employed by the landscape contracting business as defined in OAR 808-002-0328. For the purpose of verification of direct supervision of an unlicensed employee as required by ORS 671.540 (15) or (16), the communication requirement of direct supervision will be considered met if the licensed landscape construction professional communicates with the Landscape Contractors Board investigator who requested the unlicensed employee to contact the supervising landscape construction professional before midnight of the same day of the request.

(4) A landscape contracting business must require a licensed landscape construction professional to supervise the landscaping operation of the business and directly supervise the unlicensed employees of the landscape contracting business who are performing work related to the landscape construction professional's phase of license.

(5) Upon application for and before the renewal of a landscape contracting business license, and at any other time the board requests, a landscape contracting business must submit:

(a) A completed, signed and notarized Verification form (provided by the board) for every licensed landscape construction professional for whom the landscape contracting business has not previously submitted this Verification form and who is supervising work for the landscape contracting business;

(b) A copy of the landscape construction professionals current pay stub issued by the landscape contracting business if the landscape construction professional is a paid employee with the social security number and dollar amounts redacted or blackened out and

(c) A Verification form when a new individual landscape construction professional becomes part or the whole basis of the landscape contracting business license.

(6) The Verification form verifies that the licensed landscape construction professional:

(a) Is a paid employee of the landscape contracting business and is on the payroll each hour or meets the salary test for salaried, exempt employees or is an owner of the business as defined in OAR 808-002-0734 during the time the business is performing landscape work related to the landscape construction professional's phase of license;

(b) Will directly supervise work based on the landscape construction professional's phase of license;

(c) Will attend on site meetings and appear at any hearings that are a consequence of any claims filed against the landscape contracting business that relate to the landscape construction professional's phase of license; and

(d) Understands the requirement to notify the board within ten calendar days after termination of employment from the landscape contracting business.

Stat. Auth.: ORS 183.310 - 183.500, 670.310 & 671.670

Stats. Implemented: ORS 671.565

Hist.: LCB 2-1998, f. & cert. ef. 4-30-98; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 2-2006, f. 8-2-06, cert. ef. 10-2-06; LCCB 3-2007, f. & cert. ef. 8-1-07; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 3-2008, f. & cert. ef. 4-11-08; LCB 9-2008, f. 9-29-08, cert. ef. 10-1-08

808-003-0045

Change to Limited Licenses

(1) Landscape construction professional holding limited licenses may add to the phase of landscape contracting they perform by taking and passing additional sections of the exam. Licensees shall submit the required fees and a written request to take the additional sections of the exam.

(2) The following sections must be taken and passed to hold a standard landscape license:

(a) General license holders must take Laws and Rules, General A, General B, General C, and General D;

ADMINISTRATIVE RULES

(b) Sod & Seed license holders must take General A, General B, General C, and General D.

(c) Tree license holders must take General A, General B, General C, and General D.

(3) Holders of a General license, Sod & Seed license or a Tree license must take and pass the irrigation and Backflow Prevention sections of the landscape examination to become licensed to perform irrigation work and install backflow prevention devices.

(4) If a landscape contracting business' phase of license changes because its employed landscape construction professional's phases of license changes or because an employed landscape construction professional ceases to be employed by the business, the business shall notify the agency in writing within ten (10) days of the change of license phase to obtain an updated license.

(a) If the individual license holder for a business leaves the employ of the business, the individual license holder must notify the agency in writing (regular mail, fax or email) within ten (10) days of date of departure; and

(b) The business for which this licensee worked must immediately stop performing those phases of landscape contracting work until they have an owner or employee who is licensed to perform those phases of landscape contracting work.

(5) When a license phase is changed, the agency will issue a new license card at no cost to the licensee.

(6) The landscape contracting business shall not advertise to perform or perform services for which it is not licensed.

Stat. Auth.: ORS 183 & 671

Stats. Implemented: ORS 671.560

Hist.: LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. & ef. 2-1-88; Renumbered from 808-010-0022; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 4-2003, f. 5-27-03, cert. ef. 6-1-03; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 9-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 8-2008, f. & cert. ef. 9-5-08; LCB 9-2008, f. 9-29-08, cert. ef. 10-1-08

808-003-0110

Bonds, Irrevocable Letters of Credit and Deposits

(1) The landscape contracting business name must be the same on the bond as it appears on the records of the Corporation Division, if applicable.

(a) If the landscape contracting business is a sole proprietorship, only the name of the owner shall appear on the bond or irrevocable letter of credit;

(b) If the landscape contracting business is a partnership or joint venture, all partners or joint venturers (other than limited partners) shall be listed on the bond or irrevocable letter of credit;

(c) If the landscape contracting business is a limited partnership, the names of all the general partners shall appear on the bond or irrevocable letter of credit;

(d) If the landscape contracting business is a corporation or trust, only the corporate name or trust name shall appear on the bond or irrevocable letter of credit;

(e) If the landscape contracting business is a corporation or trust, only the corporate name or trust name shall appear on the bond or irrevocable letter of credit.

(2) If at any time the landscape contracting business changes its business entity form or its business name, the landscape contracting business must notify the board within 30 days from the date of the change. The landscape contracting business may be required to post a new bond or irrevocable letter of credit if the current bond or irrevocable letter of credit cannot be amended to cover the new business entity or new business name. Alternatively, if acceptable to the board under ORS 671.690(3), the landscape contracting business may be required to transfer cash or negotiable securities on deposit for the benefit of the new business entity.

(3) A Probationary All Phase Plus Backflow landscape contracting business must obtain a \$15,000 bond, irrevocable letter of credit or deposit.

(4) If the bond, irrevocable letter of credit or deposit is reduced to less than the amount required by ORS 671.690 or OAR 808-003-0110(3), the landscape contracting business shall immediately file a replacement bond, a replacement irrevocable letter of credit, a rider on the existing bond, an amended irrevocable letter of credit, or increase the deposit permitted by ORS 671.690(3), if applicable, so that the amount on deposit is equal to or greater than the amount required by 671.690 or OAR 808-003-0110(3).

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.690

Hist.: LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0031; LSCB 2-1995, f. 8-8-95, cert. ef. 8-15-95; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 9-2008, f. 9-29-08, cert. ef. 10-1-08

808-003-0130

Fees

(1) Initial license or renewal of active license

(a) Landscape contracting business, \$225.

(b) Landscape construction professional, \$75.

(2) Renewal of inactive license

(a) Landscape contracting business, \$225.

(b) Landscape construction professional, \$75.

(3) Late penalty fee:

(a) Landscape contracting business, \$25.

(b) Landscape construction professional, \$25

(4) Individual Landscape Construction Professional License

Application fee: \$60.

(5) Initial examination fee for any phase of license is:

(a) \$15 for first section of the exam; and

(b) \$10 for each additional section per exam sitting.

(6) Exam retake fees for any section of the exam is:

(a) \$15 for first section of the exam; and

(b) \$10 for each additional section per exam sitting.

(7) Exams sent to the DMV, additional processing and mailing fee: \$12.

(8) Examination, failure to show for a scheduled appointment:

(a) In Board office, \$20 without a 24 hour advance cancellation notice to the Board office.

(b) At Proctor Exam Site, forfeits full payment for that exam sitting.

(9) Landscape Contracting Business License Application fee: \$75.

(10) Probationary Individual Landscape Construction Professional License Application: \$50

(11) Initial examination fee for owner or managing employee: \$30.

(12) Examination retake fee for owner or managing employee: \$15.

(13) Requests for a replacement license card: \$20.

(14) If a landscape construction professional license expires, the amount to be paid for reinstatement equals the required fee for each year of lapse (up to two years) plus a late penalty fee for each year.

(15) If a landscape contracting business license expires, and the landscape contracting business has continuously maintained its bond, irrevocable letter of credit or deposit together with required liability insurance, the amount to be paid for reinstatement equals the required fee for each year of expiration (up to two years) plus a late penalty fee for each year. The reinstatement will be retroactive to the expiration date.

(16) If a landscape contracting business license expires, and no bond, irrevocable letter of credit or deposit, or required liability insurance, has been in effect during the interim, the amount to be paid for reinstatement equals the required fee for each year of expiration (up to two years) plus a late penalty fee for each year. The reinstatement date will be the date the required fee and documentation are received in the board office.

(17) Payments received after board deadlines, including, but not limited to payments for renewals, applications and civil penalties will be considered late and penalties shall be assessed.

(18) The board may waive the late fee if:

(a) The properly completed renewal form and correct fee are received by the agency prior to the expiration date and all other renewal requirements are met within one month after the expiration date; or

(b) The licensee's failure to meet the renewal date was caused entirely or in part by an board error or omission.

(19) The board may waive the failure to show for a scheduled examination appointment fee for good cause. Documentation may be required.

Stat. Auth.: ORS 183.310 - 183.545, 670.310 & 671.670

Stats. Implemented: ORS 671.650 & 671.660

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1983(Temp), f. 10-14-83, ef. 10-15-83; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0035; LCB 3-1988(Temp), f. 4-11-88, cert. ef. 5-1-88; LCB 4-1988, f. 11-23-88, cert. ef. 12-1-88; LCB 1-1989(Temp), f. 5-16-89, cert. ef. 7-1-89; LCB 2-1989, f. & cert. ef. 7-24-89; LSCB 1-1995, f. & cert. ef. 2-2-95; LSCB 1-1997(Temp), f. & cert. ef. 6-10-97; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 3-2002, f. & cert. ef. 7-1-02; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 6-2003, f. & cert. ef. 10-1-03; LCB 1-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 5-2004, f. & cert. ef. 10-4-04; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 7-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 3-2008, f. & cert. ef. 4-11-08; LCB 9-2008, f. 9-29-08, cert. ef. 10-1-08

Oregon Criminal Justice Commission

Chapter 213

Rule Caption: Corrects value of property thresholds for Crime Category 5.

Adm. Order No.: CJC 1-2008

Filed with Sec. of State: 10-9-2008

Certified to be Effective: 10-9-08

Notice Publication Date: 12-1-2007

Rules Amended: 213-017-0007

Subject: This amendment corrects an error in the note at the bottom of this rule series. The rule filed on December 2007, setting the property value that must be proven to sustain a crime category 5, erro-

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neously contained the values from crime category 4. This corrects that error.

Rules Coordinator: Craig Prins—(503) 378-4830

213-017-0007

Crime Category 5

The following offenses are classified at crime category 5 on the Crime Seriousness Scale:

- (1) Chapter 59 — BLUE SKY LAWS & SECURITIES LAWS* — (C).
- (2) DRUG-RELATED OFFENSES. (See division 19).
- (3) ORS 162.185 — SUPPLYING CONTRABAND — (C). (If contraband includes a controlled substance but no firearms (CC 7) or dangerous weapons (CC 6); otherwise CC 4.)
- (4) ORS 163.537 — BUYING OR SELLING THE CUSTODY OF A MINOR — (B). (If cannot be ranked at CC 8.)
- (5) ORS 163.686 — ENCOURAGING CHILD SEX ABUSE II — (C).
- (6) ORS 164.055 — THEFT I* — (C).
- (7) ORS 164.057 — AGGRAVATED THEFT — (B). (If not categorized at CC 6.)
- (8) ORS 164.065 — THEFT OF LOST/MISLAID PROPERTY* — (C).
- (9) ORS 164.075 — THEFT BY EXTORTION* — (B).
- (10) ORS 164.085 — THEFT BY DECEPTION* — (C).
- (11) ORS 164.095 — THEFT BY RECEIVING — (C). (If part of an organized operation; otherwise CC 3.)
- (12) ORS 164.125 — THEFT OF SERVICES* — (C).
- (13) ORS 164.135 — UNAUTHORIZED USE OF VEHICLE * — (C).
- (14) ORS 164.140(4) — POSSESSION OF RENTED PROPERTY * — (C).
- (15) ORS 164.215 — BURGLARY II* — (C).
- (16) ORS 164.315 — ARSON II* — (C).
- (17) ORS 164.365 — CRIMINAL MISCHIEF I * — (C).
- (18) ORS 164.377(5) — COMPUTER FRAUD (LOTTERY) * — (C).
- (19) ORS 164.377(5) — COMPUTER CRIME* — (C).
- (20) ORS 164.395 — ROBBERY III — (C).
- (21) ORS 164.868 — UNLAWFUL LABEL SOUND RECORDING* — (C).
- (22) ORS 164.869 — UNLAWFUL RECORD LIVE PERFORMANCE* — (C).
- (23) ORS 164.872 — UNLAWFUL LABEL VIDEOTAPE* — (C).
- (24) ORS 164.889 — INTERFERE W/ AGRICULTURAL RESEARCH* — (C).
- (25) ORS 165.013 — FORGERY I* — (C).
- (26) ORS 165.022 — CRIMINAL POSSESSION OF FORGED INSTRUMENT I* — (C).
- (27) ORS 165.055(3)(A) — CREDIT CARD FRAUD* — (C).
- (28) ORS 165.065 — NEGOTIATING BAD CHECKS* — (C).
- (29) ORS 165.074 — UNLAWFUL FACTORING PAYMENT CARD * — (C).
- (30) ORS 165.800 — IDENTITY THEFT* — (C).
- (31) ORS 166.087 — ABUSE OF CORPSE I — (B).
- (32) ORS 166.385(3) — FELONY POSSESSION OF A HOAX DESTRUCTIVE DEVICE — (C).
- (33) ORS 167.388 — INTERFERE LIVESTOCK PRODUCTION* — (C).
- (34) ORS 609.990(3)(b) — MAINTAINING A DANGEROUS DOG — (C).
- (35) ORS 647.145 — TRADEMARK COUNTERFEITING II* — (C).
- (36) ORS 647.150 — TRADEMARK COUNTERFEITING I* — (B).
- (37) ORS 819.300 — POSSESSION OF STOLEN VEHICLE* — (C).
- (38) ORS 819.310 — TRAFFICKING IN STOLEN VEHICLES — (C). (If not categorized at CC 6.)
- (39) 2003 Oregon Laws Ch 804 — UNLAWFUL DISTRIB. CIGARETTES — (C) <120,000.
- (40) 2003 Oregon Laws Ch 804 — UNLAWFUL DISTRIB. TOBACCO PRODUCTS — (C)
- (41) ORS 181.599 — FAIL/REPORT SEX OFFENDER — (C).
- (42) 2007 Oregon Laws Ch 584 — AGGRAVATED IDENTITY THEFT — (B).
- (43) 2007 Oregon Laws Ch 681 — PURCHASE OR SALE OF A BODY PART FOR TRANSPLANTATION OR THERAPY — (C).

(44) 2007 Oregon Laws Ch 684 — CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* — (C).

(45) 2007 Oregon Laws Ch 811 — SUBJECTING ANOTHER PERSON TO INVOLUNTARY SERVITUDE II — (C).

* Property offenses marked with an asterisk shall be ranked at Crime Category 5 if the value of the property stolen was \$10,000 but less than \$50,000, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation. Stat. Auth.: ORS 137.667

Stats. Implemented: ORS 137.667 - 137.669, 164.889, 166.643 & 2003 OL Ch. 383, 453, 543, 632, 2005 OL Ch. 708, 2007 OL Ch. 584, 681, 684, & 811
Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 1-2008, f. & cert. ef. 10-9-08

Oregon Department of Education Chapter 581

Rule Caption: Modifies rules relating to standards for elementary and secondary schools.

Adm. Order No.: ODE 25-2008

Filed with Sec. of State: 9-26-2008

Certified to be Effective: 9-26-08

Notice Publication Date: 6-1-2008

Rules Adopted: 581-021-0500

Rules Amended: 581-022-0102, 581-022-0606, 581-022-0612, 581-022-0807, 581-022-1020, 581-022-1060, 581-022-1140, 581-022-1210, 581-022-1340, 581-022-1350, 581-022-1620, 581-022-1630, 581-022-01670, 581-022-1710, 581-022-1720, 581-022-1730, 581-022-1920

Rules Repealed: 581-021-0211, 581-022-0803, 581-022-1110, 581-022-1111, 581-022-1115, 581-022-1120, 581-022-1930

Rules Renumbered: 581-022-1735 to 581-054-0007

Rules Ren. & Amend: 581-022-1732 to 581-045-0586, 581-011-0085 to 581-022-1622

Subject: The 2007 Oregon Legislature passed HB 2263 which revised ORS Chapter 329. This included the abolishment of the Certificate of Initial Mastery and the Certificate of Advanced Mastery and other changes. The proposed rulemaking implements these changes. The proposed rulemaking also clarifies what is part of the standards for public elementary and secondary schools.

Rules Coordinator: Paula Merritt—(503) 947-5746

581-021-0500

Fingerprinting of Subject Individuals in Positions Not Requiring Licensure as Teachers, Administrators, Personnel Specialists, School Nurses

(1) Definitions of terms shall be as follows:

(a) "Subject individual" means:

(A) Any person newly hired after December 31, 1993 by a school district into a position having direct, unsupervised contact with students and not requiring licensure under ORS 342.223;

(B) Any person newly hired after December 31, 1993 as or by a contractor into a position having direct, unsupervised contact with students and not requiring licensure under ORS 342.223;

(C) Any person included above unless the current employer has on file evidence from a previous employer documenting a successfully completed Oregon and FBI criminal records check. The Oregon Department of Education or the Teacher Standards and Practices Commission verification of a previous check shall be acceptable only in the event the employer can demonstrate records are not otherwise available. Additional evidence that the employee has not resided outside the state between the two periods of time working in the district shall be maintained;

(D) An individual currently employed by a school district either part time or full time, who has direct, unsupervised contact with children;

(E) A person who is a community college faculty member providing instruction at a kindergarten through grade 12 school site during the regular school day; and

(F) A person who is an employee of a public charter school.

(b) "Direct, unsupervised contact with students" means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision;

(c) "Fee" means the total charges assessed the local school district's State School Fund by the Department of Education for processing each fingerprint card submitted. The fee amount and distribution shall be as follows:

(A) Oregon State Police (OSP) — \$28;

(B) Federal Bureau of Investigation (FBI) — \$24;

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- (C) Oregon Department of Education — \$10;
(D) TOTAL — \$62.
- (d) “Information to be required” means all information requested by the Oregon Department of Education for processing the fingerprint application, including the following:
- (A) One properly completed FBI fingerprint cards #USGPO 1990-262-201-2000; and
(B) A properly completed Department of Education form #581-2283.
(e) For purposes of criminal background checks pursuant to ORS 326.603 and 326.607, conducted in relation to individuals subject to such criminal background verification, the following definitions of “conviction” of a crime applies:
- (A) Any adjudication in any criminal court of law, in this state or in any other jurisdiction, finding the individual committed a crime. A crime is an offense for which a sentence of imprisonment is authorized.
(B) Any adjudication in a juvenile proceeding, in this state or in any other jurisdiction, determining that the individual committed an offense, which if done by an adult, would constitute a crime listed in ORS 342.143.
(C) Any conduct which resulted in mandatory registration reporting as a sex offender in this state or any other jurisdiction. A later court order or other action relieving the individual of the sex offender registration/reporting requirement does not effect the status of the conduct as a conviction for purposes of this rule.
(D) Any plea of guilty, no contest or nolo contendere in connection with a crime, in this state or in any other jurisdiction.
(E) A conviction exists for purposes of this rule, regardless of whether a dismissal was later entered into the record in connection with a diversion or on any sort of deferred adjudication or delayed entry of judgment.
(F) A conviction exists for purposes of this rule even if a crime was expunged or removed from the record of the individual under the laws of another jurisdiction if the crime would be ineligible under ORS 137.225 for expunction or removal from the record if the conviction had occurred in Oregon. A conviction does not exist where an Oregon court has expunged or otherwise removed a conviction from the record of an individual.
(G) A conviction does not exist, except as noted above, only where there was a judicial adjudication that the individual did not commit the offense in question, or when a conviction, adjudication or plea is overturned by an appellate court of record and no later conviction, adjudication or plea indicating the individual committed the offense in question is on the record.
(f) “Applicant” means a subject individual for whom fingerprint cards and other required information have been submitted to the Oregon Department of Education for a criminal history check and review;
(g) “Newly hired” means the employment of a person after application or request for a position having direct, unsupervised contact with students without regard to that person’s current or previous employer; and
(h) “School district” means:
(A) A taxing district providing public elementary or secondary education, or any combination thereof, within the state;
(B) An education service district;
(C) The Oregon School for the Blind;
(D) The Oregon School for the Deaf;
(E) An educational program under the Youth Corrections Education Program; and
(F) A public charter school.
(2) School districts shall adopt and implement local board policy related to fingerprint collection and processing which shall:
(a) Specify the criteria for determining which staff positions will warrant consideration for subject individuals as defined in this rule. The local districts shall publish a list of those positions affected;
(b) Specify the format used to notify subject individuals that fingerprinting and criminal record checks are required by law and that any action resulting from those checks may be appealed as a contested case;
(c) Provide a clear statement of district response to notification by the Superintendent of Public Instruction or the State Board of Education regarding persons who have either been convicted, or have made a false statement as to the conviction of any of the crimes prohibiting employment that are listed in section (9) of this rule;
(d) Specify that subject individuals may begin to carry out terms of a contract or employment on a probationary basis pending the return of criminal record checks by the FBI;
(e) Identify that employment shall be offered prior to collecting fingerprint cards for submission to the Department of Education and that fees may be collected from the applicant. The applicant may request that the amount of the fee be withheld from the amount otherwise due the individual, and the school district shall withhold the amount only upon the request of the subject individual; and
(f) Identify a procedure that ensures the integrity of fingerprint collection and will prevent any possible compromise of the process.
(3) Fingerprints may be collected by one of the following:
(a) Employing school district staff;
(b) Contracted agent of employing school district;
(c) Local or state law enforcement agency.
(4) School districts shall send to the Department of Education for purposes of a criminal records check any information, including fingerprints for each subject individual defined in this rule immediately following offer and acceptance of employment or contract.
(5) The Department of Education shall request criminal information from the Department of State Police in the manner prescribed by law and may charge the school district a fee not to exceed the actual cost of acquiring and furnishing the information.
(6) The Oregon Department of Education shall review the criminal records of subject individual upon the district’s submission of the required FBI and state forms and the State Superintendent of Public Instruction or designee shall issue a statement of criminal history status and related impact on employment or contract qualification. The Superintendent of Public Instruction or designee shall also notify the school district if the subject individual has made a false statement as to conviction of a crime.
(7) The Oregon Department of Education shall not provide copies of criminal records to anyone except as provided by law. The subject individual may inspect his or her personal criminal records under the supervision of properly certified LEDS (Law Enforcement Data Systems) personnel at the Department of Education.
(8) Subject individuals who refuse to consent to the criminal records check or refuse to be fingerprinted shall be terminated from employment or contract status by the district.
(9) Subject individuals who have been convicted of any of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number, or have made a false statement as to the conviction of a crime shall be refused continued employment or have employment terminated upon notification from the Superintendent of Public Instruction. The crimes listed in ORS 342.143 are:
(a) ORS 163.095 — Aggravated Murder;
(b) ORS 163.115 — Murder;
(c) ORS 163.185 — Assault in the First Degree;
(d) ORS 163.235 — Kidnapping in the First Degree;
(e) ORS 163.355 — Rape in the Third Degree;
(f) ORS 163.365 — Rape in the Second Degree;
(g) ORS 163.375 — Rape in the First Degree;
(h) ORS 163.385 — Sodomy in the Third Degree;
(i) ORS 163.395 — Sodomy in the Second Degree;
(j) ORS 163.405 — Sodomy in the First Degree;
(k) ORS 163.408 — Unlawful Sexual Penetration in the Second Degree;
(l) ORS 163.411 — Unlawful Sexual Penetration in the First Degree;
(m) ORS 163.415 — Sexual Abuse in the Third Degree;
(n) ORS 163.425 — Sexual Abuse in the Second Degree;
(o) ORS 163.427 — Sexual Abuse in the First Degree;
(p) ORS 163.432 — Online sexual corruption of a child in the second degree;
(q) ORS 163.433 — Online sexual corruption of a child in the first degree;
(r) ORS 163.435 — Contributing to the Sexual Delinquency of a Minor;
(s) ORS 163.445 — Sexual Misconduct;t) ORS 163.465 -- Public Indecency;
(u) ORS 163.515 — Bigamy;
(v) ORS 163.525 — Incest;
(w) ORS 163.547 — Child Neglect in the First Degree;
(x) ORS 163.575 — Endangering the Welfare of a Minor;
(y) ORS 163.670 — Using Child in Display of Sexually Explicit Conduct;
(z) ORS 163.675 (1985 Replacement Part) — Sale of Exhibition of Visual Reproduction of Sexual Conduct by Child;
(aa) ORS 163.680 (1993 Edition) — Paying for Viewing Sexual Conduct Involving a Child;
(bb) ORS 163.684 — Encouraging Child Sex Abuse in the First Degree;
(cc) ORS 163.686 — Encouraging Child Sex Abuse in the Second Degree;
(dd) ORS 163.687 — Encouraging Child Sex Abuse in the Third Degree;
(ee) ORS 163.688 — Possession of Materials Depicting Sexually Explicit Conduct of a Child in the First Degree;
(ff) ORS 163.689 — Possession of Materials Depicting Sexually Explicit Conduct of a Child in the Second Degree;
(gg) ORS 164.325 — Arson in the First Degree;
(hh) ORS 164.415 — Robbery in the First Degree;
(ii) ORS 166.005 — Treason;
(jj) ORS 166.087 — Abuse of Corpse in the First Degree;

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- (kk) ORS 167.007 — Prostitution;
(ll) ORS 167.012 — Promoting Prostitution;
(mm) ORS 167.017 — Compelling Prostitution;
(nn) ORS 167.054 — Furnishing sexually explicit material to a child;
(oo) ORS 167.057 — Luring a minor;
(pp) ORS 167.062 — Sadoomasochistic Abuse or Sexual Conduct in Live Show;
(qq) ORS 167.075 — Exhibiting an Obscene Performance to a Minor;
(rr) ORS 167.080 — Displaying Obscene Materials to Minors;
(ss) ORS 167.090 — Publicly Displaying Nudity or Sex for Advertising Purposes;
(tt) ORS 475.848 — Unlawful manufacture of heroin within 1,000 feet of school;
(uu) ORS 475.852 — Unlawful delivery of heroin within 1,000 feet of school;
(vv) ORS 475.858 — Unlawful manufacture of marijuana within 1,000 feet of school;
(ww) ORS 475.860 — Unlawful delivery of marijuana;
(xx) ORS 475.862 — Unlawful delivery of marijuana within 1,000 feet of school;
(yy) ORS 475.864(4) — Unlawful possession of marijuana within 1,000 feet of school;
(zz) ORS 475.868 — Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of school;
(aaa) ORS 475.872 — Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 feet of school;
(bbb) ORS 475.878 — Unlawful manufacture of cocaine within 1,000 feet of school;
(ccc) ORS 475.880 — Unlawful delivery of cocaine;
(ddd) ORS 475.882 — Unlawful delivery of cocaine within 1,000 feet of school;
(eee) ORS 475.888 — Unlawful manufacture of methamphetamine within 1,000 feet of school;
(fff) ORS 475.890 — Unlawful delivery of methamphetamine;
(ggg) ORS 475.892 — Unlawful delivery of methamphetamine within 1,000 feet of school;
(hhh) ORS 475.904 — Unlawful manufacture or delivery of controlled substance within 1,000 feet of school;
(iii) ORS 475.906 — Penalties for distribution to minors.
(10) Subject individuals who have been convicted of any of the crimes listed in ORS 161.405 or an attempt to commit any of the crimes listed in section (9) of this rule shall be refused continued employment or have employment terminated upon notification from the Superintendent of Public Instruction.
(11) Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.
(12) Prior to making a determination that results in a notice and opportunity for hearing, the Superintendent of Public Instruction may cause an investigation to be undertaken. Subject individuals and districts shall cooperate with the investigation and may be required to furnish oral or written statements by affidavit or under oath. If the Superintendent of Public Instruction determines through investigation that a violation of this rule has not occurred, a written decision explaining the basis for the decision will be provided to the subject individual.
(13) Applicants may appeal a determination that prevents their employment or eligibility to contract with a school district as a contested case under ORS 183.413 to 183.470 to the Oregon Superintendent of Public Instruction.
(14) Contested case appeals may be informally resolved through procedures specified in ORS.
(15) Only cards and forms approved by the Department of Education will be accepted. The Department of Education will return any incomplete or incorrectly completed fingerprint cards and associated forms without taking any other action.
(16) The Department of Education shall maintain a record of all properly submitted fingerprint cards. The record shall include at least the following:

- (a) Card sequence number;
- (b) District submitting the cards;
- (c) Date cards and Department form received;
- (d) Date completed card sent to Oregon State Police;
- (e) Date denial or probationary approval sent to district;
- (f) Date FBI card returned to Department; and
- (g) Date denial or final approval sent to district.

Stat. Auth.: ORS 326.603

Stats. Implemented: ORS 326.603

Hist.: ODE 25-2008, f. & cert. ef. 9-26-08

581-022-0102

Definitions

The following definitions apply to Oregon Administrative Rules 581-022-0102 through 581-022-1940, unless otherwise indicated by context:

(1) "Assessment": Systematic gathering of data with the purpose of appraising and evaluating children's social, physical, emotional, and intellectual development. Activities may include testing to obtain and organize information on student performance in specific subject areas.

(2) Career and Technical Education: A sequence of organized educational activities that:

(a) Provides individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers;

(b) Provides technical skill proficiency and may provide an industry-recognized credential, a certificate or an advanced degree; and

(c) Includes applied learning that contributes to an individual's academic and technical knowledge, higher-order reasoning and problem-solving skills, work attitudes and general employability skills.

(3) "Career Development": The exploration of personal interests and abilities with regard to career selection, and the development of tentative career goals.

(4) "Career Education": A process for improving educational programs to enhance student understanding of and preparation for work and continuing career development.

(5) "Career-Related Learning Experiences": Structured student activities in the community, the workplace, or in school that connect academic content and career-related learning to real life applications. These experiences extend, reinforce and support classroom learning. They include, but are not limited to:

- (a) Workplace mentoring;
- (b) Workplace simulations;
- (c) School-based enterprises;
- (d) Structured work experiences;
- (e) Cooperative work and study programs;
- (f) On-the-job training;
- (g) Apprenticeship programs;
- (h) Service learning; and
- (i) Field-based investigations.

(6) "Charter school": A public charter school as defined in ORS 338.005.

(7) "Child development specialist program": An optional elementary (grades K-8 or any configuration thereof) component of a district's comprehensive guidance and counseling program for grades K-12.

(8) "Collection of Evidence": The work of a student collected and evaluated together to measure the student's ability to apply what the student knows and can do in relation to a set of standards or criteria.

(9) "Common Curriculum Goals": The knowledge and skills expected of all students as a result of their educational experience; defined by the state as:

(a) The Essential Learning Skills which means essential skills as defined by this rule; and

(b) The Common Knowledge and Skills in instructional programs as adopted by the State Board of Education.

(10) "Common Knowledge and Skills in Instructional Programs": Facts, concepts, principles, rules, procedures and methods of inquiry associated with specific subject matter areas as adopted by the State Board of Education.

(11) "Common School District": A school district other than a union high school district formed primarily to provide education in all or part of grades K through 12 to pupils residing within the district (ORS 330.005(2)(b)). See section (20) of this rule.

(12) "Community Partnerships": Collaborations to network resources to assist students to meet state and local standards and prepare students for post high school transitions. These partnerships include parents, students, business, education, government and community-based organizations.

(13) "Compliance Indicator": Statement of the action taken by a local district which can be accepted as evidence that the district is in compliance with the intent of a particular state standard.

(14) "Comprehensive guidance and counseling program: A program that is integral to a district's total PreK through 12 educational program that is planned, proactive and preventative in design to address each student's academic, career, personal and social development and community involvement.

(15) "Conditionally Standard School": A school that fails to meet the standards but has submitted a plan of correction, approved by the district school board, to the State Superintendent.

(16) "Course Goals": Statements describing the knowledge and skills students are expected to acquire as a result of having completed a course, elementary unit, or grade level.

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(17) "Diploma": The document issued by school districts and charter schools in accordance with OAR 581-022-1130 or 581-022-1134.

(18) "District": A common or union high school district (ORS 332.002(2)).

(19) "District Goals": Statements related to State Board of Education goals (OAR 581-022-1030) which describe the local district and community's expectations for student learning.

(20) "District School Board": The board of directors of a common school district or a union high school district (ORS 332.002(1)).

(21) "Education Plan": A formalized plan and process in which a student identifies their academic, personal and career interests which helps the student to connect school activities with their post-high school goals.

(22) "Education Profile": Documentation of a student's academic achievement and progress toward their graduation requirements, post-high school goals and other personal accomplishments identified in their education plan.

(23) "Education Record": has the same meaning as in OAR 581-021-0220.

(24) "Elementary School": Any combination of grades K through 8.

(25) "Essential Skills": Process skills that cross academic disciplines and are embedded in the content standards. The skills are not content specific and can be applied in a variety of courses, subjects, and settings. The essential skills include: Read and comprehend a variety of text; Write clearly and accurately; Listen actively and speak clearly and coherently; Apply mathematics in a variety of settings; Think critically and analytically; Use technology to learn, live, and work; Demonstrate civic and community engagement; Demonstrate global literacy; and Demonstrate personal management and teamwork skills.

(26) "Extended Application Standard": The application and extension of knowledge and skills in new and complex situations related to the student's personal and career interests and post-high school goals.

(27) "Global Studies": An area of study for learning about the people and cultures of the world through history, geography and other social studies disciplines.

(28) "High School": Any combination of grades 10 through 12 in districts providing a junior high school containing grade 9; any combination of grades 9 through 12 organized as a separate unit; grades 9 through 12 housed with grades K through 12; grades 7 or 8 through 12, if approved by the Oregon Department of Education.

(29) "Identification Team" referred to as the "Team": A team of at least two district staff who carry out district identification procedures and determine the identification of students under OAR 581-022-1310.

(30) "Instructionally related activities": Instructionally related activities is defined as field trips, outdoor school, work-study periods or other activities required of students as part of the student's academic program. Study periods or advisory periods may be included where student attendance is required and instructional assistance is provided.

(31) "Junior High School": A secondary school composed of one or more of grades 7, 8, and 9 organized separately from other grades and approved by the Oregon Department of Education.

(32) "Kindergarten": A planned program that provides activities designed to foster the physical, social, emotional, and cognitive development of young children (ORS 336.092 and 336.095).

(33) "Middle School": An organizational unit composed of any combination of grades 5, 6, 7, and 8 organized separately from other elementary grades and identified as a middle school with the Oregon Department of Education.

(34) "Next steps": The education and/or career choices students make after leaving high school, which may include the workforce, community colleges, four-year colleges and universities, private career schools, apprenticeships, and the military.

(35) "Nonstandard School": A school which fails to meet the standards, and which within ninety days of the State Superintendent's notification of deficiencies, fails to submit a plan of correction or adhere to a plan of correction approved by the State Superintendent (ORS 327.103).

(36) "Parent": Has the same definition as in Oregon Revised Statute 343.035.

(37) "Planned Course Statement": Course title, course overview, course goals (including essential learning skills, career-related goals and common curriculum goals as set forth in OARs 581-022-1210) and, where appropriate, graduation competence assigned to the course for verification.

(38) "Potential": As used in OAR 581-022-1310, the demonstrated capacity to perform at or above the 97th percentile as determined by the team.

(39) "Program": A planned series of interrelated activities or services contributing to the attainment of a goal or set of goals.

(40) "Program Evaluation": A process for making judgments about the philosophy, goals, methods, materials and outcomes of a program to guide program improvement.

(41) "Program Goals" (instructional): Statements describing what students are expected to learn in each district instructional program in any combination of grades K through 12.

(42) "Program Goals" (support): Statements describing program outcomes which support the entire learning system, or one or more of its components, usually stated in terms of services to be performed.

(43) "Program Needs Identification": Procedures, which specify and rank the differences between actual and desired outcomes leading to the consideration of program revision.

(44) "School District": A common or union high school district (ORS 332.002). For the purposes of OARs 581-022-0403, 581-022-1310, 581-022-1320 and 581-022-1330, school district has the same meaning as in Oregon Revised Statute 343.395.

(45) "Standard School": A school, which is in compliance with all of the standards.

(46) "State Standards": State Board division 22 Administrative Rules for public elementary and secondary schools.

(47) "Student Activity Funds": All money raised or collected by and/or for school-approved student groups, excluding money budgeted in the general fund.

(48) "Talented and Gifted Students": Those children defined in Oregon Revised Statute 343.395.

(49) "Union High School District": A school district, other than a common school district, formed in accordance with ORS 335.210 to 335.485 (330.005).

(50) "Unit of Credit": Certification of a student's successful completion of classroom or equivalent work (e.g., independent study, work experience, research) in a course of at least 130 clock hours, or equivalent as set out in OAR 581-022-1131.

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

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.011

Hist.: 1EB 19-1980, f. 6-17-80, ef. 7-1-80; 1EB 4-1986, f. 1-23-86, ef. 2-1-86; EB 8-1989, f. & cert. ef. 1-27-89; EB 6-1995, f. & cert. ef. 1-24-95; ODE 7-1999, f. & cert. ef. 1-15-99; ODE 12-2002, f. & cert. ef. 4-15-02; ODE 4-2003, f. & cert. ef. 3-14-03; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-0600

District Improvement Plan

District Continuous Improvement Plan Each district shall:

(1) Conduct self-evaluations in order to develop and/or update their local district continuous improvement plans on a biennial basis. The self-evaluation process shall involve the public in the setting of local goals. The school districts shall ensure that representatives from the demographic groups of their school population are invited to participate in the development of local district continuous improvement plans to achieve the goals.

(2) As part of setting local goals, school districts shall undertake a communications process that involves parents, students, teachers, school employees and community representatives to explain and discuss the local goals and their relationship to programs under this chapter.

(3) The local district continuous improvement plan shall include:

- (a) A rigorous curriculum aligned with state standards;
- (b) High-quality instructional programs;
- (c) Short-term and long-term professional development plans;
- (d) Programs and policies to achieve a safe educational environment;
- (e) A plan for family and community engagement;
- (f) Staff leadership development;
- (g) High-quality data systems;
- (h) Improvement planning that is data-driven;
- (i) Education service plans for students who have or have not exceeded all of the academic content standards;
- (j) A review of demographics, student performance, staff characteristics and student access to, and use of, educational opportunities; and
- (k) District efforts to achieve local efficiencies and efforts to make better use of resources.

(4) Annually review and report test results and progress on the district improvement plan to the community.

(5) Maintain copies of the school and district improvement plans as a public record.

(6) Submit the district improvement plan to the Department of Education when requested.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: 1EB 19-1980, f. 6-17-80, ef. as follows: Section (1) 9-1-80; Sections (2), (4), (5) 9-1-81; Section (3) 7-1-80; 1EB 26-1980, f. 11-7-80, ef. as follows: Sections (1) and (3) 9-1-81; Sections (2), (4) and (5) 9-1-82; 1EB 21-1986, f. & cert. ef. 7-2-86; EB 38-1990, f. & cert. ef. 7-10-90; EB 15-1996, f. & cert. ef. 9-26-96; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-0612

Exception of Students with Disabilities from State Assessment Testing

(1) For the purposes of this rule a "student with a disability" is a student identified under the Individuals with Disabilities Education Act,

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consistent with OAR chapter 581, division 015, or a student with a disability under Section 504 of the Rehabilitation Act of 1973.

(2) A public agency shall not exempt a student with a disability from participation in the Oregon State Assessment System or any district wide assessments to accommodate the student's disability unless the parent has requested such an exemption.

Stat. Auth.: ORS 326.051 & 343.045
Stats. Implemented: ORS 329.485 & 659.850
Hist.: ODE 3-2002(Temp), f. & cert. ef. 1-25-02 thru 6-30-02; ODE 14-2002, f. & cert. ef. 5-15-02; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-0807

Standardization

(1) A school district, to be standard, must provide acceptable educational opportunities for all Oregon students who reside in the district regardless of where they live in the district.

(2) Local school districts shall cooperate with procedures to verify compliance with state standards, to collect information about schools, to identify exemplary performance, and to promote school improvement.

(3) Methods of verifying compliance and identifying practices or conditions needing improvement shall include:

(a) Assurances of the district school board designated chief administrative officer;

(b) Review of district materials through Department of Education desk audit;

(c) On-site review of practices or conditions; and

(d) Other methods selected by the Superintendent of Public Instruction.

(3) The Superintendent or a designee of the superintendent shall declare a school district as "Nonstandard" as defined in OAR 581-022-0102, after verification through the methods described in section (2) of this rule.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 326.051 & 327.103
Hist.: 1EB 3-1985, f. 1-4-85, ef. 1-7-85; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1020

State Goals for Elementary and Secondary Education

State Goals for Elementary and Secondary Education Oregon's system of K-12 education plays a key role in preparing students to function effectively in a rapidly changing world. To successfully prepare students for the futures they choose to pursue, the State Board of Education identifies the following goals for Oregon's K-12 educational system:

(1) To insure that all Oregon students, regardless of linguistic background, culture, race, gender, capability, or geographic location, have access to a quality education in a safe, motivating environment;

(2) To provide an environment that motivates students to pursue serious scholarship and to have experience in applying knowledge and skills and demonstrating achievement;

(3) To encourage parental and community involvement in their student's education;

(4) To provide Oregon students the skills necessary to pursue learning throughout their lives in an ever changing world;

(5) To develop in Oregon students the core ethical values that our diverse society shares and holds important, including but not limited to, respect, responsibility, caring, trustworthiness, justice and fairness, and civic virtue and citizenship; and

(6) To equip Oregon students with the academic and career skills and information necessary to pursue the future of their choice through a program of rigorous academic preparation and career readiness; and

(7) To prepare students for successful transitions to the next phase of their educational development.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 326.011, 329.015, 329.025 & 336.067
Hist.: EB 9-1997, f. & cert. ef. 6-26-97; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1060

School and District Performance Report Criteria

(1) The Superintendent of Public Instruction will annually collect data from schools and school districts on student performance, student behavior and school characteristics and will annually produce a performance report for each school and school district.

(2) The Superintendent will notify the public and the media by January 30 of each year that school and district performance reports are available at each school and school district and at the Department of Education website and office. The Superintendent will include in the notice that Consolidated District Improvement Plans and School Improvement Plans as required in ORS 329.095 are available from the school and school district offices.

(3) By December 15 of each year, school districts shall send a copy of the state provided school and school district performance report to the par-

ent(s) or guardian(s) of each child enrolled in a public school in the school district.

(4) School performance reports will include grades assigned by the Superintendent, based on valid scoring scales, in each of the following categories:

(a) Student Performance;

(b) Student Behavior; and

(c) School Characteristics.

(5) School grades shall be reported as:

(a) Exceptional;

(b) Strong;

(c) Satisfactory;

(d) Low; or

(e) Unacceptable.

(6) Criteria for a school grade in Student Performance will include performance as measured by: Statewide assessment.

(7) Criteria for a school grade in Student Behavior will include performance as measured by:

(a) Student dropout rate; and

(b) Student attendance rate.

(8) Criteria for a school grade in School Characteristics will include performance as measured by: Percentage of students participating in statewide assessment.

(9) The school performance report will also include an overall grade based on a composite of the three categorical grades listed in section (4) of this rule and on improvement in Student Performance and Student Behavior over time and will be explained on the performance reports.

(10) A school receiving any grade of "Low" or "Unacceptable" shall file its revised school improvement plan with the Superintendent, the school board and the 21st Century Schools Council for the school by March 31 following the report.

(11) School performance reports may include information other than that listed in section (4). Such information will not be part of the calculation of the school grade in individual categories or of the overall grade.

(12) School district performance reports will be developed and must include the overall rating of each school in the district. The district performance report may include information other than that listed in section (4).

(13) School and school districts may include information in addition to that listed in section (4) in their locally prepared and distributed school and school district performance reports.

(14) School and school district performance reports, in conjunction with electronic supplements of the performance reports, will serve as the means by which the state meets the report card requirements of section 1111 of the No Child Left Behind Act of 2001.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 329.105
Hist.: ODE 36-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 5-2007, f. & cert. ef. 2-21-07; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1140

Equal Educational Opportunities

(1) Each district school board shall adopt written policies, and the school district shall implement in each school, programs which assure equity, opportunity and access for all students as provided in OAR 581-021-0045 and 581-021-0046.

(2) Each district school board shall adopt a policy in accordance with ORS 339.356 prohibiting harassment, intimidation or bullying and prohibiting cyberbullying. School districts are encouraged to develop the policy after consultation with parents and guardians, school employees, volunteers, students, administrators and community representatives.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 659.150 & 339.356
Hist.: EB 1-1997, f. & cert. ef. 3-12-97; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1210

District Curriculum

(1) Each school district shall provide a planned K-12 instructional program.

(2) The planned K-12 instructional program shall include the following:

(a) Common Curriculum Goals and academic content standards to include:

(A) English;

(B) Mathematics;

(C) Science;

(D) Social Science (including history, geography, economics and civics);

(E) The Arts;

(F) Second Languages;

(G) Health Education; and

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- (H) Physical Education.
- (b) Additional Common Curriculum Goals for technology.
- (c) Essential Learning Skills, as contained in the Common Curriculum Goals and academic content standards;
- (d) Career-related learning standards, as contained in the Common Curriculum Goals and academic content standards; and
- (e) Career education which may include career and technical education.

(3) The school district shall also provide instruction in other areas identified in chapter 581, division 022 of the Oregon Administrative Rules, including:

- (a) Infectious diseases, including AIDS/HIV and Hepatitis B;
 - (b) Prevention education in drugs and alcohol; and
 - (c) Emergency plans and safety programs.
- (4) The school district is also accountable to provide instruction in compliance with requirements set forth in ORS Chapter 336, Conduct of Schools Generally.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 329.045
Hist.: EB 6-1997, f. & cert. ef. 6-9-97; ODE 7-2005(Temp), f. & cert. ef. 3-15-05 thru 9-1-05; Administrative correction 9-21-05; ODE 5-2006, f. & cert. ef. 2-14-06; ODE 19-2007, f. & cert. ef. 9-10-07; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1340

Special Education for Children with Disabilities

Each school district shall provide an educational program for all resident children with a disability who are eligible under ORS Chapter 343. The program shall be carried out in accordance with all applicable Oregon Administrative Rules.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 343.041
Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1350

Alternative Education Programs

(1) Sections (2)–(9) of this rule apply to each public or private alternative education program approved by a school district board on or after July 1, 2007. For the purposes of this rule, the term “program” includes “school.”

(2) In order to provide innovative and more flexible ways of educating children, school districts may establish alternative education options within the public school system.

(3) School districts must adopt policies and procedures for the approval and at least annual evaluation of public and private alternative education programs under ORS 336.615-336.665 (Alternative Education Programs) that receive public funds. Those policies and procedures must provide that:

(a) The district’s approval and at least annual evaluation must require that a public alternative program complies with all state statutes, rules and federal law applicable to public schools;

(b) Before contracting with or distributing any public school funds to a private alternative education program, the district must document that:

(A) The program is registered with the Oregon Department of Education (ODE) under the provisions of OAR 581-021-0072 by receiving a copy of the Department’s written notice that the program’s registration is approved for the current school year;

(B) The ODE has assigned the private alternative program an institution identification number;

(C) Before contracting with or distributing any public school funds to any private alternative education program for special education services identified in a child’s IEP, the program is approved by the Department in compliance with OAR 581-015-2270;

(D) The program complies with the individual education plan for each student who is eligible to receive special education services;

(E) An education plan and education profile that meet the requirements of OAR 581-022-1130 are designed and implemented with each student in the program;

(F) The education plan includes criteria for determining if, when, where, and how the student may transition from the alternative program;

(G) A transportation plan is in place ensuring that the program is accessible to each student approved for placement in the program;

(H) The program assists the district in meeting its comprehensive K–12 instructional program in compliance with OAR 581-022-1210;

(I) The program assures that it provides an instruction based on academic content standards adopted by the State Board of Education and that students participate in district and state assessments of achievement for the grade level(s) the program serves;

(J) The program assists students in earning diploma credits consistent with OAR 581-022-1130, 581-022-1134 and 581-022-1135;

(K) The program collects and reports to the district each student’s local and state assessment, attendance, behavior, graduation, dropout, and other data required by the district and the state;

(L) Student data is included in the district’s at least annual evaluation of the program;

(M) The program complies with federal law; and

(N) If applicable, the private alternative education program is in compliance with its existing district contract.

(4) The contract between a school district and a private alternative education program must state that non-compliance with a rule or statute under this rule (OAR 581-022-1350) will result in the termination of the contract, and suspension or revocation of registration by the Department will terminate the district’s contract with the private alternative program and that the private alternative education program’s annual statement of expenditures is reviewed in the districts’ evaluation in accordance with ORS 336.635(2).

(5) School districts shall adopt policies and procedures to approve placing students in district approved public alternative education programs and district approved private alternative education programs. Such policies and procedures must ensure that:

(a) Students placed in alternative education programs are those whose educational needs and interests are best served by participation in such programs and will include:

(A) Students identified pursuant to ORS 339.250;

(i) Who are being considered for suspension or expulsion pursuant to ORS 339.250;

(ii) Who have been suspended or expelled pursuant to ORS 339.250;

(iii) Whose attendance patterns have been found to be so erratic that the students are not benefiting from the regular educational program; or

(iv) Who have had a second or subsequent occurrence within any three-year period of a severe disciplinary problem;

(B) Students identified pursuant to ORS 329.485 and OAR 581-022-1110(5) who do not meet the standards or who exceed all of the standards at any benchmark level;

(C) Students admitted to the district pursuant to ORS 339.115 who have not yet turned 21 prior to the start of the school year and who need additional instruction to earn a diploma in compliance with OAR 581-022-1130;

(D) Students whose parents or legal guardians apply for the student’s exemption from compulsory attendance on a semiannual basis as provided in ORS 339.030 and OAR 581-021-0076; and

(E) Others who are individually approved for placement consistent with the district’s board policies regarding the placement;

(b) Placement of a student in a public or private alternative education program may be made only if:

(A) The student is a resident of the district and the district has legal responsibility for the student’s education consistent with ORS 327.006(7);

(B) After assessing the student’s needs and interests and consulting with the parent or guardian, the district determines that the student is not benefiting, has not benefited, or will not benefit from attendance in other district schools or programs;

(C) The alternative program is determined by the district to best serve the student within local and state academic standards; and

(D) Placement in the program is made consistent with the student’s education plan pursuant to OAR 581-022-1120(3)(a) and (b) and 581-022-1130(3) and with district policies and procedures;

(c) Placement in a public or private alternative education program must be made with the approval of the student’s resident school district and attending school district; and

(d) Payment to private alternative education providers must be the actual cost of the program or an amount at least equivalent to 80 percent of the district’s estimated current year’s average per student net operating expenditure, whichever is less.

(6) A school district must adopt policies and procedures for notification of students, parents or guardians of students of:

(a) The law regarding alternative education programs;

(b) The availability of existing alternative education programs; and

(c) The procedures for students, parents, or guardians of students residing in the district to request the establishment of new alternative education programs.

(7) School districts must include opportunities for participation by educators, community members, and parents or guardians in the development of policies and procedures under this rule.

(8) School districts must have policies and procedures in place to ensure that, for the purposes of making claims for state school funds;

(a) Students enrolled in a public school district and receiving instruction in the district’s comprehensive planned K–12 curriculum consistent with OAR 581-022-1210 and who are individually placed by the school district in an alternative education programs are accounted consistent with 581-023-0006(7);

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(b) Students supplementing home or private schooling by attending part-time and receiving less than comprehensive education from the district are accounted consistent with OAR 581-023-0006(6)(a);

(c) Students receiving online instruction are accounted consistent with reporting guidelines published in the Oregon Student Personnel Accounting Manual, and

(d) Activities claimed for state school funds and credits awarded in the alternative education program consistent with OAR 581-023-0008 are approved by the district and by the contract between a private alternative program and the district.

(9) School districts must have policies and procedures in place to ensure that data for each student in public and private alternative education programs are included in district reporting as required by ODE.

Stat. Auth.: ORS 326.051, 327.125, 336.625 & 336.645
Stats. Implemented: ORS 327.006, 329.485, 336.615 - 336.665, 329.485, 339.115, 339.030 & 339.250
Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 2-1998, f. & cert. ef. 2-27-98; ODE 4-2003, f. & cert. ef. 3-14-03; ODE 12-2007, f. & cert. ef. 4-25-07; ODE 20-2007, f. & cert. ef. 9-10-07; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1620

Required Instructional Time

(1) Each school district shall annually adopt and implement a school calendar which provides its students at each grade level with the following minimum number of instructional hours:

- (a) Grades 9–12 — 990 hours;
- (b) Grades 4–8 — 900 hours;
- (c) Grades 1–3 — 810 hours;
- (d) Grade K — 405 hours;

(e) A district unable to meet minimums for a particular grade level, e.g., when Grade 9 is part of a 7–9 configuration, should utilize the request for a waiver process set forth in OAR 581-022-1920.

(2) There shall be no fewer than 265 consecutive calendar days between the first and last instructional day of each school year at each grade level.

(3) No student shall be required to exceed the following number of instructional hours per day:

- (a) Grades 9–12 — 7 hours;
- (b) Grades 4–8 — 6.5 hours;
- (c) Grades K–3 — 6 hours.

(4) School assemblies, student orientations, testing, parent-teacher conferences, and other instructionally related activities involving students directly may be included in the required instructional hours. However, transportation to and from school, passing times between classes, non-instructional recess and lunch periods shall not be included. Passing time is defined as those minutes between segments of the program that are apparent in the school's daily schedule.

(5) When approved by a local school board, annual instructional hour requirements stated in section (1) of this rule may be reduced as follows:

(a) Up to a total of 30 hours to accommodate staff development activities, pupil transportation schedules, or other local program scheduling arrangements;

(b) Up to a total of 14 hours of emergency school closures due to adverse weather conditions and facility failures.

(6) Student and staff activities related to the opening and closing of the school year, grade reporting, program planning, staff meetings, and other classroom and building management activities shall not be counted as instructional time or in the reductions provided for in subsection (5)(a) of this rule.

(7) For multiple shift programs, this rule applies to each shift (i.e., each student must have access to the minimum annual required hours of instruction).

(8) The instructional time requirement for twelfth-grade students may be reduced by action of a local school board for an amount of time not to exceed 30 hours of instructional time.

Stat. Auth.: ORS 326.011 & 326.051
Stats. Implemented: ORS 326.051
Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1622

Independent Adoptions

(1) Upon prior notice to the State Board of Education (Board), the district school board of any school district may adopt independently instructional materials for use in place of or in addition to those adopted by the Board, provided they meet the guidelines and criteria established by the Board. Such district adoptions shall be known as independent adoptions.

(2) The Board delegates to the State Superintendent of Public Instruction the authority to receive from the school districts their notifications of independent adoptions of instructional materials.

(3) In order to give proper notification that an independent adoption is being made, the administrative head of the district must send to the State

Superintendent of Public Instruction, prior to placing the instructional materials into use in the local schools, a notification, approved by the local school board. The notification shall include the following information:

(a) The subject, category, and grade level(s) in which the instructional materials will be used;

(b) The title of the instructional materials;

(c) The publisher of the instructional materials;

(d) The copyright date of the instructional materials;

(e) The date on which the local school board approved the independent adoption;

(f) The date on which the district intends to install the instructional materials for use in the school system; and

(g) A statement that a completed criteria checklist showing the degree to which the instructional materials meet the criteria established by the State Board of Education is on file in the district office. (Criteria checklists for the specific subject/category are available from the State Instructional Materials Services, Department of Education, Salem, Oregon.)

(4) Independent adoptions are valid only for the period ending with the close of the current state adoption period for the subject area identified.

Stat. Auth.: ORS 337.050(2) & ORS 337.141

Stats. Implemented: ORS 337.141

Hist.: 1EB 215, f. 1-29-76, ef. 2-25-76; 1EB 245, f. & ef. 9-23-76; 1EB 19-1982, f. & ef. 11-23-82; EB 2-1991, f. & cert. ef. 2-28-91; EB 21-1991(Temp), f. 10-30-91, cert. ef. 11-1-91; EB 30-1991, f. & cert. ef. 12-18-91; ODE 10-2001, f. & cert. ef. 5-15-01; Renumbered from 581-011-0085, ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1630

Daily Class Size

A school district shall maintain class sizes and teacher assignments which promote effective practices consistent with the outcomes expected of each instructional program.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1670

Individual Student Assessment, Recordkeeping, and Reporting

Each district shall:

(1) Assess and record each student's progress in all subject areas of instruction, including the academic content standards:

(a) Instruments and/or strategies used to determine student progress may assess multiple goals;

(b) Results from the assessment instruments and/or strategies may be used as a record of achievement level; and

(c) Records of student performance may be kept in teacher grade books, student folders, portfolios, or similar devices.

(2) Assist teachers in adapting instruction and curriculum to meet the needs and learning rates of all students in attaining the goals of the subject area.

(3) Annually report progress towards completion of graduation requirements to parents of students in grades 9–12.

(4) Report at least annually on student progress in each subject area of instruction to parents or guardians of all students in grades K-12 including, but not limited to, the following:

(a) Information on progress in each subject area (e.g., grades, checklists, folders, etc.) including major goals used to determine such information;

(b) Upon request from a parent or guardian, specific evidence of student progress on the goals of a subject area and

(c) Student scores on all state and local assessments indicating any of the requirements that have been waived for the school district or the individual and the time periods for the waiver.

(5) Maintain student records under the student's legal name or establish a cross-reference system to locate the student's records by use of the student's legal name.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 18-2002, f. & cert. ef. 6-10-02; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1710

Personnel

(1) All teachers, specialists, and administrators employed by school districts must hold valid Oregon licenses and be assigned in accordance with the individual license district policies, program goals and applicable statutes and administrative rules.

(2) Any school district employing teacher aides shall follow applicable Oregon Administrative Rules.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 25-2008, f. & cert. ef. 9-26-08

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581-022-1720

Personnel Policies

(1) The school district shall adopt and implement personnel policies which address:

- (a) Affirmative action;
- (b) Staff development;
- (c) Equal employment opportunity;
- (d) Evaluation procedures; and
- (e) Employee communication system.

(f) The requirement for releasing to Teacher Standards and Practices Commission, another district or any person upon request the disciplinary records of an employee or former school employee if the employee was convicted of one or more of the list of crimes addressed in ORS 342.143.

(2) The evaluation procedures required in section (1) of this rule shall include:

(a) Job descriptions, and performance standards which include but are not limited to items stated in the job descriptions;

(b) A preevaluation interview which includes but is not limited to the establishment of performance goals for the teacher, based on the job description and performance standards;

(c) An evaluation based on written criteria which include the performance goals; and

(d) A post-evaluation interview in which:

(A) The results of the evaluation are discussed with the teacher; and

(B) A written program of assistance for improvement is established, if one is needed to remedy the problem.

(3) Personnel policies shall be accessible to any school employee and notice of their availability to the general public shall be published:

(a) A current copy shall be accessible in each school office and library; and

(b) Any organization which represents employees of the district shall be furnished a copy and revisions as they are made.

(4) Bonded Employees: All employees responsible for funds, fees or cash collections shall be bonded in compliance with Oregon Revised Statutes and Oregon Administrative Rules.

(5) Employees for whom a teaching certificate is not required: The school district shall give to each such employee an individual written notice of reasonable assurance of continued employment as required by ORS 332.554.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1730

Fingerprinting of Subject Individuals in Positions Not Requiring Licensure as Teachers, Administrators, Personnel Specialists, School Nurses

All public school districts shall comply with the requirements for Fingerprinting of subject individuals as defined in and in compliance with OAR 581-021-0500.

Stat. Auth.: ORS 326.603

Stats. Implemented: ORS 326.603

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 12-1998(Temp), f. & cert. ef. 6-23-98 thru 12-19-98; ODE 4-1999, f. & cert. ef. 1-12-99; ODE 29-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 13-2003(Temp), f. & cert. ef. 7-1-03 thru 12-15-03; ODE 3-2004, f. & cert. ef. 1-15-04; ODE 9-2006, f. & cert. ef. 2-21-06; ODE 25-2008, f. & cert. ef. 9-26-08

581-022-1920

Waivers

School districts may request two types of waivers as follows:

(1) Waiver of a specific standard: To address an immediate concern or need, a school district may petition the State Superintendent of Public Instruction for a waiver of a specific standard. A petition shall specify the reason(s) the district is seeking the waiver and other relevant information. If it is determined that the request conforms with the intent of the standards, the State Superintendent shall recommend the waiver to the State Board. Waivers under this provision may be granted for up to one year.

(2) Educational Flexibility Partnership Demonstration Act (Ed-Flex) Waiver:

(a) This federal Act allows school districts to request a waiver of statutory or regulatory requirements under the following federal programs or Acts:

(A) Elementary and Secondary Education Act (ESEA) Title I, Helping Disadvantaged Children Meet High Standards;

(B) ESEA Title II, Teacher Quality;

(C) ESEA Title IV, Safe Drug Free Schools;

(D) ESEA Title V, Innovative Education Program Strategies;

(E) ESEA Title VII, Part C — Emergency Immigrant Education;

(F) Carl D. Perkins Vocational and Applied Technology Education Act.

(b) The application must demonstrate that the school district, if the waiver is granted, will still meet the underlying purposes of the federal statutory requirements. The request of an Ed-Flex Waiver must be made on the appropriate application form available from the Department of Education. Waivers under this provision may be granted for periods not to exceed five years.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051, 329.077 & 329.555

Hist.: EB 2-1997, f. & cert. ef. 3-27-97; ODE 11-2002, f. & cert. ef. 4-12-02; ODE 25-2008, f. & cert. ef. 9-26-08

581-045-0586

Fingerprinting of Subject Individuals Employed by Private Schools in Positions Not Requiring Licensure as Teachers, Administrators, Personnel Specialists, School Nurses

(1) Definitions of terms shall be as follows:

(a) "Subject individual" means:

(A) A person employed by a Private School in a position having direct, unsupervised contact with students and not requiring licensure under ORS 342.223; and

(B) Any person newly hired as or by a contractor into a position having direct, unsupervised contact with students and not requiring licensure under ORS 342.223.

(b) "Direct, unsupervised contact with students" means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision;

(c) "Fee" means the total charges assessed. Fees shall be paid to the Oregon Department of Education with submission of fingerprint cards and associated form. The fee amount and distribution shall be as follows:

(A) Oregon State Police (OSP) — \$28;

(B) Federal Bureau of Investigation (FBI) — \$24;

(C) Oregon Department of Education — \$10;

(D) TOTAL — \$62.

(d) "Information to be required" means all information requested by the Oregon Department of Education for processing the fingerprint application, including the following:

(A) One properly completed FBI fingerprint cards #USGPO 1990-262-201-2000; and

(B) A properly completed Department of Education form #581-2283-C.

(e) "Convictions of crimes prohibiting employment, contract or assignment by a contractor" means, notwithstanding any other statutes or Oregon administrative rule, conviction of a crime listed in ORS 342.143, or making a false statement as to the conviction of a crime;

(f) "Applicant" means a subject individual for whom fingerprint cards and other required information have been submitted to the Oregon Department of Education for a criminal history check and review;

(g) "Private School" means a school that is registered with the Oregon Department of Education under ORS 345.515.

(2) The Department of Education shall request criminal information from the Department of State Police in the manner prescribed by law and may charge the private school a fee not to exceed the actual cost of acquiring and furnishing the information.

(3) The Oregon Department of Education shall review the criminal records of subject individual upon the private school's submission of the required FBI and state forms and the State Superintendent of Public Instruction or designee shall issue a statement of criminal history status. The Superintendent of Public Instruction or designee shall notify the private school if the subject individual has made a false statement as to conviction of a crime.

(4) The Oregon Department of Education shall not provide copies of criminal records to anyone except as provided by law. The subject individual may inspect his or her personal criminal records under the supervision of properly certified LEDS (Law Enforcement Data Systems) personnel at the Department of Education.

(5) The Superintendent of Public Instruction or designee shall notify the private school if the subject individual has been convicted of a crime listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number. The crimes listed in ORS 342.143 are:

(a) ORS 163.095 — Aggravated Murder;

(b) ORS 163.115 — Murder;

(c) ORS 163.185 — Assault in the First Degree;

(d) ORS 163.235 — Kidnapping in the First Degree;

(e) ORS 163.355 — Rape in the Third Degree;

(f) ORS 163.365 — Rape in the Second Degree;

(g) ORS 163.375 — Rape in the First Degree;

(h) ORS 163.385 — Sodomy in the Third Degree;

(i) ORS 163.395 — Sodomy in the Second Degree;

(j) ORS 163.405 — Sodomy in the First Degree;

ADMINISTRATIVE RULES

(k) ORS 163.408 — Unlawful Sexual Penetration in the Second Degree;

(l) ORS 163.411 — Unlawful Sexual Penetration in the First Degree;

(m) ORS 163.415 — Sexual Abuse in the Third Degree;

(n) ORS 163.425 — Sexual Abuse in the Second Degree;

(o) ORS 163.427 — Sexual Abuse in the First Degree;

(p) ORS 163.432 — Online sexual corruption of a child in the second degree;

(q) ORS 163.433 — Online sexual corruption of a child in the first degree;

(r) ORS 163.435 — Contributing to the Sexual Delinquency of a Minor;

(s) ORS 163.445 — Sexual Misconduct;

(t) ORS 163.465 — Public Indecency;

(u) ORS 163.515 — Bigamy;

(v) ORS 163.525 — Incest;

(w) ORS 163.547 — Child Neglect in the First Degree;

(x) ORS 163.575 — Endangering the Welfare of a Minor;

(y) ORS 163.670 — Using Child in Display of Sexually Explicit Conduct;

(z) ORS 163.675 (1985 Replacement Part) — Sale of Exhibition of Visual Reproduction of Sexual Conduct by Child;

(aa) ORS 163.680 (1993 Edition) — Paying for Viewing Sexual Conduct Involving a Child;

(bb) ORS 163.684 — Encouraging Child Sex Abuse in the First Degree;

(cc) ORS 163.686 — Encouraging Child Sex Abuse in the Second Degree;

(dd) ORS 163.687 — Encouraging Child Sex Abuse in the Third Degree;

(ee) ORS 163.688 — Possession of Materials Depicting Sexually Explicit Conduct of a Child in the First Degree;

(ff) ORS 163.689 — Possession of Materials Depicting Sexually Explicit Conduct of a child in the Second Degree;

(gg) ORS 164.325 — Arson in the First Degree;

(hh) ORS 164.415 — Robbery in the First Degree;

(ii) ORS 166.005 — Treason;

(jj) ORS 166.087 — Abuse of Corpse in the first Degree;

(kk) ORS 167.007 — Prostitution;

(ll) ORS 167.012 — Promoting Prostitution;

(mm) ORS 167.017 — Compelling Prostitution;

(nn) ORS 167.054 — Furnishing sexually explicit material to a child;

(oo) ORS 167.057 — Luring a minor;

(pp) ORS 167.062 — Sadomasochistic Abuse or Sexual Conduct in Live Show;

(qq) ORS 167.075 — Exhibiting an Obscene Performance to a Minor;

(rr) ORS 167.080 — Displaying Obscene Materials to Minors;

(ss) ORS 167.090 — Publicly Displaying Nudity or Sex for Advertising Purposes;

(tt) ORS 475.848 — Unlawful manufacture of heroin within 1,000 feet of school;

(uu) ORS 475.852 — Unlawful delivery of heroin within 1,000 feet of school;

(vv) ORS 475.858 — Unlawful manufacture of marijuana within 1,000 feet of school;

(ww) ORS 475.860 — Unlawful delivery of marijuana;

(xx) ORS 475.862 — Unlawful delivery of marijuana within 1,000 feet of school;

(yy) ORS 475.864 — Unlawful possession of marijuana;

(zz) ORS 475.868 — Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of school;

(aaa) ORS 475.872 — Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 feet of school;

(bbb) ORS 475.878 — Unlawful manufacture of cocaine within 1,000 feet of school;

(ccc) ORS 475.880 — Unlawful delivery of cocaine;

(ddd) ORS 475.888 — Unlawful manufacture of methamphetamine within 1,000 feet of school;

(eee) ORS 475.890 — Unlawful delivery of methamphetamine;

(fff) ORS 475.892 — Unlawful delivery of methamphetamine within 1,000 feet of school;

(ggg) ORS 475.904 — Unlawful manufacture or delivery of controlled substance within 1,000 feet of school;

(hhh) ORS 475.906 — Penalties for distribution to minors.

(6) Subject individuals who have been convicted of any of the crimes listed in ORS 161.405 of an attempt to commit any of the crimes listed in section (5) of this rule shall be refused continued employment or have employment terminated upon notification from the Superintendent of Public Instruction.

(7) Only cards and forms approved by the Department of Education will be accepted. The Department of Education will return any incomplete or incorrectly completed fingerprint cards and associated forms without taking any other action. The Department of Education will return fingerprint cards and associated forms without appropriate fees without taking any other action.

(8) The Department of Education shall maintain a record of all properly submitted fingerprint cards. The record shall include at least the following:

- (a) Card sequence number;
 - (b) Name of Private School submitting the cards;
 - (c) Date cards and Department form received;
 - (d) Date incomplete card returned to the school (only if applicable);
 - (e) Date completed card sent to Oregon State Police;
 - (f) Date private school was notified of state police record or lack of record;
 - (g) Date FBI card returned to Department;
 - (h) Date private school was notified of FBI record or lack of record.
- Stat. Auth.: ORS 326.603
Stats. Implemented: ORS 326.603
Hist.: EB 16-1997, f. & cert. ef. 12-29-97; ODE 29-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 13-2003(Temp), f. & cert. ef. 7-1-03 thru 12-15-03; Administrative correction 8-2-04; ODE 9-2006, f. & cert. ef. 2-21-06; Renumbered from 581-022-1732, ODE 25-2008, f. & cert. ef. 9-26-08

581-054-0007

Athlete Agents Permits

- (1) Definitions:
- (a) "Agent Contract" means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports services contract or an endorsement contract.
- (b) "Athlete Agent" means an individual who enters into an agency contract with a student athlete or, directly or indirectly, recruits or solicits a student athlete to enter into an agency contract. Athlete agent includes an individual who represents to the public that the individual is an athlete agent.
- (c) "Athlete Agent" does not include a spouse, parent, sibling, grandparent or legal guardian of the student athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.
- (d) "Athlete director" means an individual responsible for administering the overall athletic program of an educational institution or if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or athletic program for females, as appropriate.
- (e) "Contact" means communication, direct or indirect, between an athlete agent and a student athlete, to recruit or solicit the student athlete to enter into an agency contract.
- (f) "Endorsement Contract" means an agreement under which a student is employed or receives consideration to use on behalf of the other party, any value that the student athlete may have because of publicity, reputation, fame or following obtained because of athletic ability or performance.
- (g) "Educational Institution" means any elementary school, secondary school, college, university or other educational institution.
- (h) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of collegiate athletics.
- (i) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public body, as defined in ORS 174.109, or any other legal or commercial entity.
- (j) "Professional Sports Services Contract" means an agreement under which an individual is employed or agrees to render services as a player on a professional sports team with a sports organization or as a professional athlete.
- (k) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (l) "Registration" means registration as an athlete agent pursuant to ORS 702.005 to 702.063 and 702.991.
- (m) "State" means a state of the United States, the District of Columbia, Puerto Rico, The United States, Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.
- (n) Means an individual who engages in, is eligible to engage in or may be eligible, in the future, to engage in any intercollegiate sport. "Student Athlete" does not include an individual who:
- (A) Is permanently ineligible to participate in a particular intercollegiate sport;
 - (B) Is not a student athlete for the purposes of that sport.

ADMINISTRATIVE RULES

(2) Civil Action:

(a) By acting as an athlete agent in Oregon, nonresident individual appoints the Department of Education as the individuals agent for service of process in any civil action in Oregon related to the individual's acting as an athlete agent in Oregon.

(b) The department may issue subpoenas for any material that is relevant to the administration of ORS 702.005 to 702.063 and 702.991.

(3) Certificate of Registration, application, and revocation process: except as otherwise provided in subsection (a) of this section, an individual may not act as an athlete agent in Oregon without holding a certificate of registration issued under this section or section (5).

(a) Before being issued a certificate of registration, an individual may act as an athlete agent in Oregon for all purposes except signing an agency contract if:

(A) A student athlete or another person acting on behalf of the student athlete initiates communication with the individual; and

(B) Within seven days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in Oregon.

(b) An agency contract resulting from conduct in violation of this section is void and the athlete agent shall return any consideration received under the contract.

(c) Except as otherwise provided in subsection (d) of this rule, the Department of Education (department) shall issue a certificate of registration to an individual who complies with ORS 702.017(1) and (2) or whose application has been accepted under 702.017(3).

(d) The department may refuse to issue a certificate of registration if the department determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant fitness to act as an athlete agent. In making the determination, the department may consider whether the applicant has:

(A) Been convicted of a crime that if committed in Oregon, would be a crime involving moral turpitude or a felony;

(B) Made a materially false, misleading, deceptive or fraudulent representation in the application or as an athlete agent;

(C) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

(D) Engaged in prohibited conduct;

(E) Had a registration of licensure as an athlete agent suspended, revoked or denied or been refused renewal of registration or licensure as an athlete agent in any state;

(F) Engage in conduct the consequence of which was that a sanction, suspension or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student athlete or educational institution; or

(G) Engaged in conduct that significantly, adversely reflects on the applicant's credibility, honesty or integrity.

(e) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the department. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration.

(f) An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (e) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The department shall accept the application for renewal for the other state as an application for renewal in Oregon if the application to the state if it:

(A) Was submitted in the other state within the preceding six months and the applicant certifies that the information contained in the application for renewal is current;

(B) Contains information substantially similar to or more comprehensive that are required in an application for renewal submitted in Oregon; and

(C) Was signed by the applicant under penalty of perjury.

(g) A certificate of registration or renewal of a registration is valid for two years.

(h) The department may suspend, revoke or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing.

(4) Contents of Application Form:

(a) An applicant for registration shall submit an application for registration to the Department of Education in a form prescribed by the department and if requested by the department, shall allow the department to take fingerprints for a criminal record check conducted pursuant to ORS 702.022.

(b) The application must be in the name of an individual and except as otherwise provided in subsection (c) of this section, signed or otherwise authenticated by the applicant under penalty of perjury. The application must state or contain:

(A) The name of the applicant and the address of the applicant's principal place of business;

(B) The name of the applicant's business or employer, if applicable;

(C) Any business or occupation engaged in by the applicant for the five years preceding the date of submission of the application;

(D) A description of the applicant's:

(i) Formal training as an athlete agent;

(ii) Practical experience as an athlete agent; and

(iii) Educational background relating to the applicant's activities as an athlete agent.

(E) The names and addresses of three individuals not related to the applicants who are willing to serve as references;

(F) The name, sport and last known team for each individual for whom the applicant acted as an athlete agent during the five years preceding the date of submission of the application;

(G) The names and addresses of all persons who are:

(i) With respect to the athlete agent's business if the business is not a corporation, the partners, members, officers, managers, associates or profit sharers of the business; and

(ii) With respect to a corporation employing the athlete agent, the officers, directors and any shareholder of the corporation having an interest of five percent or more.

(H) Whether the applicant or any person named pursuant to paragraph (G) of this subsection has been convicted of a crime that, if committed in Oregon, would be a crime involving moral turpitude or a felony and identify the crime;

(I) Whether there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph (G) of this subsection has made a false, misleading, deceptive or fraudulent representation;

(J) Whether there has been any denial of an application for suspension or revocation of a refusal to renew the registration or licensure of the applicant or any person named pursuant to paragraph (G) of this subsection as an athlete agent in any state;

(K) Any sanction, suspension or disciplinary action taken against the applicant or any person named pursuant to paragraph (G) of this subsection arising out of occupational or professional conduct; and

(L) Any instance in which the conduct of the applicant or any person named pursuant to paragraph (G) of this subsection resulted in the imposition of a sanction, suspension or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student athlete or educational institution.

(c) An individual who has submitted an application for and holds a certificate of registration or licensure as an athlete agent in another state may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subsection (b) of this section. The department shall accept the application and the certificate from the other state as an application for registration in Oregon if the application to the other state if it:

(A) Was submitted in the other state within the preceding six months and the applicant certifies that the information contained in the application is current;

(B) Contains information substantially similar to or more comprehensive than that required in an application submitted in Oregon; and

(C) Was signed by the applicant under penalty of perjury. (5) The Department of Education may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.

(6) Fees: An application for registration or renewal of registration must be accompanied by a fee in the following amount:

(a) \$250 for an initial application for registration;

(b) \$150 for an application for registration based upon a certificate of registration or licensure issued by another state;

(c) \$150 for an application for renewal of registration; or

(d) \$150 for an application for renewal of registration based upon an application for renewal of registration or licensure submitted in another state.

(7) Prohibited acts:

(a) An athlete agent may not intentionally:

(A) Initiate contact with a student athlete unless registered under ORS 702.005 to 702.063 and 702.991;

(B) Refuse or fail to retain or permit inspection of the records required to be retained by section (11) of this rule;

(C) Fail to register when required by ORS 702.012;

(D) Provide materially false or misleading information in an application for registration or renewal of registration;

(E) Predate or postdate an agency contract; or

(F) Fail to notify a student athlete before the student athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student athlete ineligible to participate as a student athlete in that sport.

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(b) An athlete agent may not furnish anything of value to the student athlete before the student athlete enters into an agency contract.

(c) An athlete agent may not, with the intent to induce a student athlete to enter into an agency contract, furnish anything of value to any individual other than the student athlete or another registered athlete agent.

(d) An athlete agent may not, with the intent to induce a student athlete to enter into an agency contract, give any materially false or misleading information or make a materially false promise or representation.

(8) Agency Contracts:

(a) An agency contract must be in a record, signed or otherwise authenticated by the parties.

(b) An agency contract must state or contain:

(A) The amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services;

(B) The name of any person not listed in the application for registration or renewal of registration that will be compensated because the student athlete signed the agency contract;

(C) A description of any expenses that the student athlete agrees to reimburse;

(D) A description of the services to be provided to the student athlete;

(E) The duration of the contract; and

(F) The date of execution.

(c) An agency contract must contain, in close proximity to the signature of the student athlete, a conspicuous notice in boldfaced type in capital letters stating:

WARNING TO THE STUDENT ATHLETE: IF YOU SIGN THIS CONTRACT, YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT ATHLETE IN YOUR SPORT. IF YOU HAVE AN ATHLETIC DIRECTOR, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT, OR BEFORE YOU PARTICIPATE IN ANY INTERSCHOLASTIC OR INTERCOLLEGIATE SPORTS EVENT, WHICHEVER OCCURS FIRST. YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

(d) An agency contract that does not conform to this section is voidable by the student athlete. If a student athlete voids an agency contract, the student athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student athlete to enter into the contract.

(e) The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student athlete at the time of execution.

(f) The amendments to ORS 702.047 by section 12 of this 2005 Act apply to agency contracts entered into on or after the effective date of this 2005 Act.

(9) Time constraints on agency contracts:

(a) Within 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student athlete is enrolled or the athlete agent has reasonable grounds to believe the student athlete intends to enroll.

(b) Within 72 hours after entering into an agency contract or before the next athletic event in which the student athlete may participate, whichever occurs first, the student athlete shall inform the athletic director of the educational institution at which the student athlete is enrolled that the student athlete has entered into an agency contract.

(10) Student rights:

(a) A student athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within 14 days after the contract is signed.

(b) The right of a student to cancel a contract under this section may not be waived.

(c) If a student athlete cancels an agency contract, the student athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student athlete to enter into the contract.

(11) Recordkeeping requirements:

(a) An athlete agent shall retain the following records for a period of five years:

(A) The name and address of each individual represented by the athlete agent;

(B) Any agency contract entered into by the athlete agent; and

(C) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student athlete to enter into an agency contract.

(b) Records required by subsection (a) of this section to be retained are open to inspection by the Department of Education during normal business hours of the athlete agent.

(12) Educational damages and actions:

(a) An educational institution shall have a cause of action against an athlete agent or a former student athlete for damages caused by a violation of ORS 702.005 to 702.063 and 702.991. In an action under this section, the court may award to the prevailing party costs and reasonable attorney fees.

(b) For the purposes of this section, damages of an educational institution include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student athlete, the educational institution was injured by a violation of ORS 702.005 to 702.063 and 702.991 or was penalized, disqualified or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.

(c) A cause of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student athlete.

(d) Any liability of the athlete agent or the former student athlete under this section is several and not joint.

(e) ORS 702.005 to 702.063 and 702.991 do not restrict rights, remedies or defenses of any person under law or equity.

(13) Civil Penalties:

(a) The Department of Education may assess a civil penalty against an athlete agent not to exceed \$25,000 for a violation of ORS 702.005 to 702.063.

(b) Civil penalties under subsection (a) of this section shall be imposed in the manner provided in ORS 183.745.

(c) All civil penalties recovered under this section shall be paid into the State Treasury and credited to the General Fund and are available for general governmental expenses.

(14) Penalties:

(a) An athlete agent who violates ORS 702.032 is guilty of a Class C felony.

(b) Violation of the athlete agent's 72-hour notice requirement provided under section (9)(a) of this rule is a Class C felony.

(c) It is a Class A misdemeanor for any person to conduct business as an athlete agent in the State of Oregon unless the person has a valid certificate of registration issued pursuant to ORS 702.012 or section (6) of this rule.

(d) It is a Class A misdemeanor for any person to represent to another person by verbal claim, advertisement, letterhead, business card or any other means that the person is an athlete agent unless the person has a valid certificate of registration issued pursuant to ORS 702.012 or section (6) of this 2005 Act.

(15) In applying and construing ORS 702.005 to 702.991, the courts and the Department of Education shall give consideration to the need to promote uniformity of the law with respect to its subject matter among states that have enacted the Uniform Athlete Agents Act.

(16) Fingerprint request and destruction:

(a) The Department of Education may request and the Department of State Police shall furnish to the Department of Education, information on an individual that the Department of State Police possesses in the central bureau of criminal identification, including but not limited to manual or computerized information required for purposes of issuing a certificate of registration to an athlete agent under ORS 702.012 and 702.017 or a temporary certificate of registration to an athlete agent under section (5) of this rule.

(b) After furnishing the information obtained under subsection (a) of this section, the Department of State Police shall conduct a nationwide criminal records check of the individual through the Federal Bureau of Investigation, including records of fingerprints, and report the results to the Department of Education.

(c) The Federal Bureau of Investigation shall either return or destroy the fingerprint cards used to conduct the criminal records check and shall not keep any record of the fingerprints. However, if the federal bureau policy authorizing return or destruction of the fingerprint cards is changed, the Department of Education shall not send the cards to the federal bureau, but shall continue to process the information through other available resources.

(d) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of State Police, the Department of State Police shall return the fingerprint cards to the Department of Education. The Department of Education shall destroy the fingerprint cards and shall not keep any facsimiles or other material from which a fingerprint can be reproduced.

(e) For purposes of receiving the information described in this section, the Department of Education is considered to be a designated agency as defined in ORS 181.010.

Stat. Auth.: ORS 702.063

Stats. Implemented: ORS 702

ADMINISTRATIVE RULES

Hist.: ODE 28-1999(Temp), f. & cert. ef. 11-5-99 thru 5-20-00; ODE 14-2000, f. & cert. ef. 5-3-00; ODE 6-2006, f. & cert. ef. 2-14-06; Renumbered from 581-022-1735, ODE 25-2008, f. & cert. ef. 9-26-08

Oregon Liquor Control Commission
Chapter 845

Rule Caption: Adopt, amend, repeal rules modernizing and streamlining the food service requirements for full on-premises licenses.

Adm. Order No.: OLCC 12-2008

Filed with Sec. of State: 10-13-2008

Certified to be Effective: 11-1-08

Notice Publication Date: 8-1-2008

Rules Adopted: 845-006-0459

Rules Amended: 845-005-0320, 845-006-0460, 845-006-0461, 845-006-0462, 845-006-0463, 845-006-0464, 845-006-0465, 845-006-0466, 845-006-0469

Rules Repealed: 845-005-0340, 845-006-0467, 845-006-0468

Subject: This package contains the rules describing the food service requirements for the five categories of full on-premises sales licensees who are authorized to sell distilled liquor by the drink. As mandated by statute, there are certain food service requirements for: commercial establishments, private clubs, public passenger carriers, other public locations, and caterers. This package also contains the rules describing the food service requirements for TSL's (temporary sales licenses). The proposed rule amendments include specific recommendations from the Business Partners Joint Steering Committee such as: eliminating the minimum table size requirement; eliminating the "cook on duty" requirement; revising the definition of "distinctly different" to allow similar items with different ingredients or prepared differently (to allow for more flexibility); eliminating the requirement for table settings during meal times; and rather than relying on percentage of food vs. alcoholic beverage sales, clarifying what is considered minimum food service and applying it equally throughout the food service rules. With the goal of making all of the food service rules easier to understand and to follow, staff are proposing additional simplifying amendments including: revising the definition of "regular meal" to include more principal items and allow more flexibility with side dishes; eliminating the need for math calculations to figure out the minimum number of dining seats required by setting a fixed minimum for dining seats; eliminating the language regarding buddy bars; adopting a uniform food standard for all F-PL's (Full On-Premises Public Location Sales Licensees); clarifying what is considered "discouraging food service"; and creating a new definitions rule where definitions of terms used throughout the food service rules are standardized.

Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-005-0320

License Refusal Reasons that Can Not be Overcome

The following criteria will preclude issuing a license:

(1) The applicant has or would have an interest in another liquor business that ORS 471.313(3), 471.394, or 471.396 prohibits.

(2) The applicant seeks a license or sales authority that requires food service and is unable to show in writing that the applicant will comply with the food service requirements set by the rules of the Commission.

(3) The applicant seeks a Full On-Premises Sales license as a commercial establishment as defined in ORS 471.001(2) and will not be open to the public to the extent Commission rules require.

(4) The applicant seeks a Full On-Premises Sales license as an "other public location" as allowed by ORS 471.175(2)(d) and will not allow public access to its premises.

(5) The applicant seeks a Full On-Premises Sales license as a private club as allowed by ORS 471.175(2)(a) and the applicant has fewer than 200 members or has been chartered for less than one year. "Member" means an individual with voting rights and privileges in the private club equal to any other individual in the club whose club dues are fully paid on the date upon which membership is counted.

(6) The applicant is a retail sales agent of the Commission with a contract for an exclusive agency or seeks to exercise the license privileges in an exclusive sales agent's premises.

(7) The applicant fails to successfully complete an approved Alcohol Server Education Course as ORS 471.542 and the Commission rules require.

(8) The applicant has not paid an outstanding fine to the Commission. ORS 471.313(4)(g) allows the Commission to deny a license if the applicant had a poor compliance record when previously licensed. Nonpayment of a fine is one indicator of a poor compliance record.

(9) The applicant who is subject to the bonding requirements of ORS 471.155(1) has failed to post a tax bond or the equivalent as required.

(10) The applicant who is subject to the liquor liability insurance requirements of OAR 845-005-0400 has failed to obtain or maintain liquor liability insurance or bond as required.

(11) The applicant for an initial license has not completed Commission-given law orientation.

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

Stats. Implemented: ORS 471.313 & 471.168

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 14-2002, f. 10-25-02 cert. ef. 11-1-02; OLCC 12-2008, f. 10-13-08, cert. ef. 11-1-08

845-006-0459

Definitions

As used in OAR 845-006-0459 through 845-006-0469:

(1) "Substantial food items" means food items prepared or cooked on the licensed premises and that are typically served as a main course or entrée. Some examples could include but are not limited to items such as fish, steak, chicken, pasta, pizza, sandwiches, dinner salads, hot dogs, soup and sausages. Side dishes, appetizer items, dessert items, and snack items such as popcorn, peanuts, chips and crackers do not qualify as substantial food items.

(2) "Meal" means a substantial food item offered together with at least one side dish or a substantial food item with two or more side dishes available to order separately. Side dishes include but are not limited to vegetables, fruit, salad, rice, french fries and bread.

(3) "Different" means substantial food items that the Commission determines differ in their primary ingredients or method of preparation. For example, a turkey sandwich differs from a salami sandwich, a beef burger differs from a turkey burger, a pepperoni pizza differs from a cheese pizza, and fried chicken differs from baked chicken. Different sizes of the same item are not considered different under this rule. For example, a large cheese pizza is not different from a small cheese pizza and a large hot dog is not different from a small hot dog.

(4) "Dining seats" means seating at indoor tables or food counters as defined in OAR 845-006-0340(2)(j) located in areas of the licensed premises regularly open to the public where the Commission determines that each table top or seating area provides a minimum space that will accommodate a place setting consisting of a plate or dish, glassware, napkin and utensils for each seat.

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

Stats. Implemented: ORS 471.175

Hist.: OLCC 12-2008, f. 10-13-08, cert. ef. 11-1-08

845-006-0460

Food Service at Commercial Establishment with Full On-Premises Sales License

(1) Purpose: The Oregon Liquor Control Act allows licensed commercial establishments with food service to sell distilled spirits by the drink. ORS 471.001(2) defines a commercial establishment as a place of business open to the general public, or else a private golf club or athletic club, where food is cooked and served, which has adequate kitchen facilities for the preparation and serving of meals and which has for that purpose proper dining space. This rule sets the food service requirements for commercial establishments with a Full On-Premises Sales license. The applicant has the burden of proving it meets the standards and qualifications of this rule and OAR 845-006-0466.

(2) Food Service at Required Meal Periods.

(a) A business open after 5:00 pm must make available to its patrons in all areas where alcohol service is available an offering of at least five different meals during a regular meal period which must last at least three hours. At least three out of the five different meals used to meet the minimum meal requirement must include a main course or entrée (substantial food item) which has been prepared or cooked on the premises in some manner beyond the simple re-heating of a pre-cooked frozen food or carry-out item obtained from a business other than the licensed premises. A business may have fewer than five different meals in the premises or in an area if the Commission determines that the clearly dominant emphasis in the premises or in the area is food service after 5:00 pm.

(b) A business not open after 5:00 pm must make available to its patrons in all areas where alcohol service is available an offering of at least five different meals during a required meal period which must last at least two hours. At least three out of the five different meals used to meet the minimum meal requirement must include a main course or entrée (substan-

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tial food item) which has been prepared or cooked on the premises in some manner beyond the simple re-heating of a pre-cooked frozen food or carry-out item obtained from a business other than the licensed premises. A business may have fewer than five different meals in the premises or in an area if the Commission determines that the clearly dominate emphasis in the premises or in the area is food service before 5:00 pm.

(c) One method for showing that the clearly dominant emphasis in the premises or in the area is food service is for the Commission to determine that the gross receipts from the sale of meals and substantial food items to patrons for consumption in the premises or in the area exceed or are reasonably expected to exceed the gross receipts from alcohol sales when alcohol service is available.

(3) Minimum Food Requirement at Times other than Required Meal Periods. At all times other than required meal periods and in all areas where alcohol service is available, businesses must make available to their patrons an offering of at least five different substantial food items.

(4) Dining Seats during Required Meal Periods: The licensed premises must have at least 30 dining seats during required meal periods. Seats at counters in entertainment areas and at bars as defined in OAR 845-006-0340(2)(i) do not qualify as dining seating. A premises may have less than 30 dining seats if the Commission determines that the clearly dominant emphasis of the premises is food service as described in section (2)(c) of this rule at all times and in all areas where alcohol service is available when open to the public.

(5) Violation of any section of this rule is a Category III violation.

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

Stats. Implemented: ORS 471.175

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 12-2008, f. 10-13-08, cert. ef. 11-1-08

845-006-0461

Food Service Requirements for Private Clubs With a Full On-Premises Sales License

(1) Purpose: ORS 471.175 allows private clubs with food service to sell distilled spirits by the drink. ORS 471.175(8) defines a private club, in regard to food service, as having suitable and adequate space and equipment, implements and facilities, and employing a sufficient number of individuals for serving food and meals for its members and their guests. This rule sets the food service requirements for private clubs.

(2) A private club must comply with the food service requirements of OAR 845-006-0460(2) & (3) during all times and in all areas it is serving alcohol to the general public.

(3) Food Requirements When Serving Alcohol in Areas where only Full and Auxiliary Members, and their Guests, are Present.

At all times and in all areas where only full and auxiliary members, and their guests, are present and alcohol service is available, the club must make available at least three different substantial food items.

(4) Violation of any section of this rule is a Category III violation.

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

Stats. Implemented: ORS 471.175

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 12-2008, f. 10-13-08, cert. ef. 11-1-08

845-006-0462

Food Service Requirements for Off-Premises Events with a Full or Limited On-Premises Sales License

(1) Purpose: ORS 471.184 allows Full and Limited On-Premises Sales licensees to have off-premises events under the license privilege. Notice and approval standards for these events are in OAR 845-005-0405 and 845-005-0410. Use of a liquor license for off-premises events requires prior written approval from the Commission under the guidelines of OAR 845-005-0405 or 845-005-0410. This rule sets the food service requirements for off-premises events with a Full or Limited On-Premises Sales license.

(2) If the off-premises event would qualify for general pre-approval under OAR 845-005-0405 or 845-005-0410, the licensee must provide at all times and in all areas where alcohol service is available at least two different substantial food items, some of which the licensee prepares and cooks in sufficient quantity to provide at least one serving for each person at the event. A licensee may have fewer than two different substantial food items in the area where alcohol service is available if the Commission determines that the clearly dominant emphasis in this area is food service as described in OAR 845-006-0460(2)(c).

(3) If the off-premises event is not of a type that would qualify for general pre-approval granted by the Commission but has been approved under the standards of OAR 845-005-0410 and distilled spirits are provided at the event, the licensee or a contract food service provider must provide at least five different substantial food items on the off-premises event's licensed premises at all times and in all areas where alcohol service is available.

(4) If the off-premises event is not of a type that would qualify for general pre-approval under the standards of OAR 845-005-0410 and distilled spirits are not provided at the event, the licensee or a contract food service provider must provide at least two different substantial food items on the off-premises event's licensed premises at all times and in all areas where alcohol service is available.

(5) If the licensee does not directly provide the food service required under sections (3) and (4) of this rule, the food service must be provided by a contractor or contractors. The contract may be with the licensee or with the organizer of the event. The licensee may sell or serve alcohol only when food service that meets the requirements of this rule is provided to patrons at all times and in all areas where alcohol service is available. The Commission may waive the OAR 845-005-0311 requirement that a contract food service provider be a co-licensee at the event if the contract food provider does not provide any alcohol service and does not directly or indirectly manage people who sell or serve alcohol. A licensee may have fewer than the different substantial food items required under sections (3) and (4) of this rule in the area where alcohol service is available if the Commission determines that the clearly dominant emphasis in this area is food service as described in OAR 845-006-0460(2)(c).

(6) Violation of any section of this rule is a Category III violation.

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

Stats. Implemented: ORS 471.175

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 12-2008, f. 10-13-08, cert. ef. 11-1-08

845-006-0463

Food Service Requirements for Public Passenger Carriers With a Full On-Premises Sales License

(1) Purpose: ORS 471.175 allows the Commission to grant a Full On-Premises Sales license to certain types of public passenger carriers with food service. This rule sets the food service requirements for public passenger carriers with a Full On-Premises Sales license.

(2) The Commission may issue a Full On-Premises Sales license to an airline for use in operating its aircraft that are licensed to carry at least 40 passengers, and that arrive or depart from an airport in this state. At any time alcoholic beverage service is available, the licensee must make available to passengers a variety of food items.

(3) The Commission may issue a Full On-Premises Sales license to a railroad corporation for use in operating its passenger trains in this state. The licensee must make available to passengers a selection of at least five different types of food items such as sandwiches, pizza, bentos, dinner salads and appetizers at any time alcoholic beverage service is available.

(4) The Commission may issue a Full On-Premises Sales license to the owner or operator of one or more tour boats for use in operating its tour boats that are used primarily for non-fishing purposes, that are licensed to carry at least 40 passengers and that operate upon waters within the state. The licensee must make available a selection of at least five different types of food items such as sandwiches, pizza, bentos, dinner salads and appetizers at any time alcoholic beverage service is available.

(5) The Commission may waive the OAR 845-005-0311(3) requirement that a carrier licensee's food service contractor or caterer be a co-licensee, if the contractor or caterer does not provide on-board services, and does not provide alcohol service on the airplane, train or boat.

(6) Violation of any section of this rule is a Category III violation.

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

Stats. Implemented: ORS 471.175 & 471.182

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 12-2008, f. 10-13-08, cert. ef. 11-1-08

845-006-0464

Food Service Requirements for Other Public Locations With a Full On-Premises Sales License

ORS 471.175 allows the Commission to grant a Full On-Premises Sales license to public locations that are other than commercial establishments, private clubs, or public passenger carriers. This rule sets the food service requirements for other public locations.

(1) Other Public Locations are businesses open to the public where meals or substantial food items are offered, but where the predominant activity of the business is other than the preparation or serving of meals or the consumption of alcohol. Examples of such businesses are an auditorium; a music, dance, or performing arts facility; a banquet or special events facility; a lodging facility; a fairground; a sports stadium; an art gallery; or a convention, exhibition, or community center.

(2) Food Service: At all times and in all areas where alcohol service is available, the licensee must make available to patrons at least five different substantial food items.

(3) Violation of any section of this rule is a Category III violation.

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

Stats. Implemented: ORS 471.175

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 12-2008, f. 10-13-08, cert. ef. 11-1-08

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845-006-0465

Food Service Requirements for Temporary Licenses Authorized Under ORS 471.190(4)

Temporary sales and special event licensees approved under OAR 845-005-0440 must comply with the following food service standards whenever alcoholic beverage service is available.

(1) If distilled spirits are provided at the event, the licensee or the licensee's contract food service provider must provide at all times and in all areas where alcohol service is available at least three different substantial food items.

(2) If distilled spirits are not provided, the licensee or a contract food service provider must provide at all times and in all areas where alcohol service is available at least two different substantial food items.

(3) If the licensee does not directly provide the food service required under sections (1) and (2) of this rule, the food service must be provided by a contractor or contractors. The contract may be with the licensee or with the organizer of the event. The licensee may sell or serve alcohol only when food service that meets the requirements of this rule is provided to patrons at all times and in all areas where alcohol service is available. The Commission may waive the OAR 845-005-0311 requirement that a contract food service provider be a co-licensee at the event if the contract food provider does not provide any alcohol service and does not directly or indirectly manage people who sell or serve alcohol. A licensee may have fewer than the different substantial food items required under sections (1) and (2) of this rule in the area where alcohol service is available if the Commission determines that the clearly dominant emphasis in this area is food service as described in OAR 845-006-0460(2)(c).

(4) Violation of any section of this rule is a Category III violation.

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

Stats. Implemented: ORS 471.190(4)

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 12-2008, f. 10-13-08, cert. ef. 11-1-08

845-006-0466

General Food Service Requirements for Full On-Premises Sales Licenses

(1) Food preparation facilities: Except for public passenger carriers licensed under ORS 471.182, a Full On-Premises Sales licensee must have a food preparation area and equipment adequate to prepare, cook and serve food to meet the food service requirements of the Commission. The food preparation area and equipment must be on the licensed premises except when the licensed premises is a location catered by a licensee under the authority of ORS 471.184.

(2) Discouraging food service: A Full On-Premises Sales licensee may not discourage or attempt to discourage a person from ordering or obtaining food from the licensee. Examples of discouraging food service include but are not limited to: A failure to take, prepare, cook, or deliver a food order in a timely manner; clearly over-pricing food for the clientele of the establishment; offering or serving unpalatable food; failing to provide required food service; and failing to provide a food service menu in a timely manner to a patron when requested by the patron.

(3) Violation of any section of this rule is a Category III violation.

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

Stats. Implemented: ORS 471.175

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 12-2008, f. 10-13-08, cert. ef. 11-1-08

845-006-0469

Full On-Premises Sales License with Additional On-Premises Sales Privilege

(1) Any Full On-Premises Sales licensee holding at the same licensed premises another license allowing on-premises consumption of alcohol must comply with the food service requirements of the Full On-Premises Sales license regardless of which license is used to serve alcohol for on-premises consumption.

(2) Violation of any section of this rule is a Category III violation.

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

Stats. Implemented: ORS 471.175

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 12-2008, f. 10-13-08, cert. ef. 11-1-08

Oregon State Treasury Chapter 170

Rule Caption: Weekly Reporting Requirement for Bank Depositories at 110% Collateralization.

Adm. Order No.: OST 5-2008(Temp)

Filed with Sec. of State: 10-2-2008

Certified to be Effective: 10-2-08 thru 3-30-09

Notice Publication Date:

Rules Adopted: 170-040-0090

Subject: The temporary rule requires weekly Treasurer Reports when a bank depository is required to collateralize at 110%.

Rules Coordinator: Sally Furze—(503) 378-4990

170-040-0090

Weekly Reporting Requirement for Bank Depositories at 110% Collateralization

Bank depositories ordered to collateralize their public funds deposits at 110% by the State Treasurer are required to submit a new Treasurer Report weekly. The weekly reporting requirement shall remain in effect until such time as the bank depository no longer holds public funds deposits over the FDIC limit or the State Treasurer removes the 110% collateralization requirement.

Stat. Auth.: ORS 295.018(1) and 295.061(3)

Stats. Implemented: ORS 295

Hist.: OST 5-2008(Temp), f. & cert. 10-2-08 thru 3-30-09

Oregon Student Assistance Commission Chapter 575

Rule Caption: The Oregon Tax Credit Program for Eligible Employers with Employee and/or Employee Dependent Scholarship Programs.

Adm. Order No.: OSAC 4-2008

Filed with Sec. of State: 10-15-2008

Certified to be Effective: 10-15-08

Notice Publication Date: 10-1-2008

Rules Amended: 575-063-0005, 575-063-0010, 575-063-0020, 575-063-0030

Rules Repealed: 575-063-0040, 575-063-0050, 575-063-0060, 575-063-0080, 575-063-0090

Subject: OAR 575-063 defines and provides procedures for the Oregon Tax Credit Program for employers with employee and/or employee dependent scholarship programs certified by the Oregon Student Assistance Commission.

Rules Coordinator: Susanne D. Taylor—(541) 687-7394

575-063-0005

Definitions

(1) "An eligible employer." An individual, partnership, or corporation that employs at least four full-time equivalent employees but no more than 250 employees, and must provide or intend to provide scholarship funds during the calendar year for which tax certification is being sought.

(2) "An eligible employee." An employee of an eligible employer who has been employed by that employer for a minimum period of employment not to exceed three years.

(3) "Dependent." An individual over half of whose support, for the calendar year in which the taxable year for the eligible employee taxpayer begins, was received from an eligible employee, consistent with the requirements of IRC S 152.

(4) "An eligible institution." A post-secondary institution in the U.S. that participates in federal Title IV student financial aid programs.

(5) "Concurrently enrolled." A student who attends more than one eligible institution under a written consortium agreement or concurrent enrollment program.

(6) "Expenses." Cost of education, which, is the sum of tuition and fees, room and board, books and supplies, transportation, and personal expenses incurred in the pursuit of a postsecondary education as determined by the institution.

(7) "Qualified Scholarship." A scholarship that meets the criteria set forth or incorporated into the letter of employee and dependent scholarship program certification issued by the Commission.

Stat. Auth.: ORS 183 & 348

Stats. Implemented: HB 2521, 2001 Leg. Assembly

Hist.: OSAC 7-2002, f. & cert. ef. 3-12-02; OSAC 4-2008, f. & cert. ef. 10-15-08

575-063-0010

Employer Program Certification Procedures

(1) The application for program certification by an employer establishing an employer-sponsored scholarship program shall be filed by the employer with OSAC at least three months prior to the close of the first tax year for which a tax credit will be claimed.

(2) The application shall be filed on a form provided by the Commission and shall contain information required by the Commission including the following:

(a) The total number of employees employed by the employer for the calendar year and the total number of employees who will be eligible or whose dependents will be eligible to participate.

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- (b) The date on which scholarship program will first be available.
- (c) The annual limit, if any, on the amount of funds to be used for scholarships; and
- (d) The criteria to be used by the employer in determining the eligibility of an employee or an employee's dependent for a scholarship under the program.

(3) The Commission shall certify an application that meets all conditions of the scholarship program.

(4) The Commission shall certify or reject an application within 60 days of receipt of the application and shall notify the employer of the Commission's determination.

(5) For employers whose proposed scholarship program has been certified, the Commission shall send a letter of program certification to the employer.

(6) An employer whose application is rejected by the Commission shall have the opportunity to amend the application within 30 days of date of notification.

(7) A program certification issued under 575-063-0010 shall remain valid until the employer changes the terms of eligibility for a scholarship under the program, changes the minimum or maximum amount of a scholarship, or ceases to be an employer.

Stat. Auth.: ORS 183 & 348
Stats. Implemented: HB 2521, 2001 Leg. Assembly
Hist.: OSAC 7-2002, f. & cert.ef. 3-12-02; OSAC 4-2008, f. & cert. ef. 10-15-08

575-063-0020

Tax Credit Certification Procedures

(1) To qualify for tax credit, an employer who has obtained program certification or has applied for program certification shall submit an application for tax credit certification to the Commission.

(2) The employer shall file the application for tax credit certification no later than October 1 of the calendar year for which a tax credit will be claimed.

(3) The application shall be filed on a form provided by the Commission and shall include:

(a) The amount of scholarship funds the employer has provided or intends to provide during the calendar year for which tax certification is being sought; and

(b) The number of employees employed by the employer for the calendar year.

(4) The Commission will consider applications in the chronological order in which they are received.

(5) The Commission will approve no more than a total of \$1 million in tax credit certifications annually in a calendar year.

(6) An employer may not receive a tax credit certification for more than \$1 million in a lifetime.

(7) The Commission shall send written notification of the amount of the tax credit certification, if any, to all applicants and the Department of Revenue within 60 days of receipt of an application.

(8) The employer shall keep the written certification in the employer's records for at least five years and shall furnish the certification to the Department of Revenue if requested.

Stat. Auth.: ORS 183 & 348
Stats. Implemented: HB 2521, 2001 Leg. Assembly
Hist.: OSAC 7-2002, f. & cert.ef. 3-12-02; OSAC 4-2008, f. & cert. ef. 10-15-08

575-063-0030

General Program Policy

Employers who establish a scholarship program for their employees and/or dependents of their employees shall adhere to administrative rules as set forth in the Oregon Administrative Rules for Privately Funded Award Programs, division 60. The employer and the Commission shall agree to administer the employer-sponsored scholarship program according to a set of mutually agreeable rules. The employer and the Commission shall be governed by Section 117(b) of the Internal Revenue Code and regulations promulgated thereunder.

Stat. Auth.: ORS 183 & 348
Stats. Implemented: HB 2521, 2001 Leg. Assembly
Hist.: OSAC 7-2002, f. & cert.ef. 3-12-02; OSAC 4-2008, f. & cert. ef. 10-15-08

Oregon University System, Eastern Oregon University Chapter 579

Rule Caption: Amend special student and course fees.

Adm. Order No.: EOU 7-2008

Filed with Sec. of State: 10-15-2008

Certified to be Effective: 10-15-08

Notice Publication Date: 9-1-2008

Rules Repealed: 579-020-0008, 579-020-0012, 579-020-0017

Subject: The repeal of these rules creates more accuracy and more closely reflects practice at EOU. All fees charge by Eastern Oregon University are recorded in 579-020-0006, making the above-referenced rules obsolete.

Rules Coordinator: Lara Moore—(541) 962-3368

Parks and Recreation Department Chapter 736

Rule Caption: ATV rules to implement Legislatively-required process for issuing ATV operating permits, rider fit standards, and safety and education training.

Adm. Order No.: PRD 8-2008

Filed with Sec. of State: 10-15-2008

Certified to be Effective: 10-15-08

Notice Publication Date: 6-1-2008

Rules Adopted: 736-004-0090, 736-004-0095, 736-004-0100, 736-004-0105, 736-004-0110, 736-004-0115

Rules Amended: 736-004-0005, 736-004-0010, 736-004-0015, 736-004-0020, 736-004-0025, 736-004-0030, 736-004-0045, 736-004-0060, 736-004-0062, 736-004-0065, 736-004-0070, 736-004-0080, 736-004-0085

Rules Repealed: 736-004-0055, 736-004-0075

Subject: Amend OPRD ATV rules to implement Legislatively required:

- Process for issuing ATV operator and operating permits;
- Phased in mandatory safety and education training for riders of off highway vehicles or all terrain vehicles;
- "Rider Fit" standards to establish if rider is of adequate size to operate an ATV.

Rules Coordinator: Joyce Merritt—(503) 986-0756

736-004-0005

Purpose of Rule

This rule establishes the procedures and requirements used by the Oregon Parks and Recreation Department (OPRD) when allocating ATV Account Fund monies to public and privately owned land managers, ATV clubs and organizations; procedures for All-Terrain Vehicle (ATV) off-road operating permit; and implementation of safety and education requirements for Class I and Class III off-highway vehicles.

Stat. Auth.: ORS 390.180, 390.585
Stats. Implemented: ORS 390.180
Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0010

Statutory Authority

(1) ORS 390.585 authorizes the Oregon Parks and Recreation Department to adopt rules and establish procedures to be used when OPRD allocates ATV Account Fund money to public and privately owned land managers, ATV clubs and organizations.

(2) OAR 736-004-0045 through 736-004-0070 are adopted pursuant to ORS 390.580, 390.585, and 390.590 which direct the Oregon Parks and Recreation Department to issue Class I and Class III Operating Permits to persons who satisfy the statutory requirements to ride on public property.

(3) OAR 736-004-0080 through 736-004-0115 are adopted pursuant to ORS 390.570 and 390.575 which direct the Oregon Parks and Recreation Department to issue or provide for issuance of Class I and Class III ATV operator permits to any person who has taken a Class I or Class III OPRD-approved ATV safety education course and has been found qualified to operate a Class I or Class III all-terrain vehicle. These statutes require the Department to provide safety education course instructors through public or private local and state organizations meeting qualifications established by the Department.

Stat. Auth.: ORS 390.180, 390.585
Stats. Implemented: ORS 390.180
Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0015

Definitions

For purposes of this Division, the following definitions shall apply:
(1) "Acquisition" means the gaining of real property rights for public use by donation or purchase, including but not limited to, fee title or easements.

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(2) "Approved Course Provider" is any individual or organization who instructs or provides an OPRD-approved Class I or Class III ATV safety course.

(3) "ATV" or "All-Terrain Vehicle" means:

(a) Class I ATV, as defined in ORS 801.190: a motorized, off-highway recreational vehicle 50 inches or less in width with a dry weight of 800 pounds or less that travels on three or more low pressure tires, has a saddle or seat for the operator, and is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain.

(b) Class II ATV, as defined in ORS 801.193: any motor vehicle that:

(A) Weighs more than a Class I all-terrain vehicle;

(B) Is designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland or other natural terrain; and

(C) Is Actually being operated off a highway or is being operated on a highway for agricultural purposes under ORS 821.191.

(c) Class III ATV, as defined in ORS 801.194: an off-highway motorcycle with a dry weight of 600 pounds or less that travels on two tires.

(d) May also be referred to as an OHV or Off-Highway Vehicle.

(4) "ATV-AAC" means the All-Terrain Vehicle Account Allocation Committee appointed by the commission to advise OPRD on the allocation of ATV funds.

(5) "ATV Account Fund" means those funds derived from ATV operating permit sales and a percentage of unrefunded gasoline tax dollars related to ATV use. ATV Account Fund may also be called "ATV grant funds."

(6) "ATV Grant Instruction Manual" means a manual prepared by the OPRD containing state and federal policies, procedures, guidelines, and instructions to assist current and potential project sponsors.

(7) "ATV Operating Permit" means a permit (decal) issued through the OPRD and which is permanently affixed to the vehicle. The permit authorizes the use of ATV's on trails and within designated areas authorized by the appropriate authorities.

(8) "ATV Operating Permit Agent" means a person, business or government agency to whom OPRD consigns ATV operating permits and decals for sale as a service to the general public.

(9) "ATV Operator Permit" means the ATV Safety Education Card issued upon completion of an OPRD-approved ATV Safety Education course and passage of the minimum standards test of ATV Safety Education competency as established by OPRD.

(10) "ATV Safety Checklist" is a document provided to a dealer, guide service, rental, or livery agent by the OPRD that consists of selected facts about Oregon ATV laws.

(11) "ATV Safety Course" is any OPRD-approved course of instruction that is offered by an approved course provider and concludes with an examination.

(12) "ATV Safety Education" means those grant projects that include but are not limited to training programs, media with information for the public, safe riding practices, environmental ethics, or any combination thereof.

(13) "All Terrain Vehicle Safety Education Card" is the ATV Operator's Permit required by ORS 390.570 and 390.575.

(14) "Commission" means the Oregon Parks and Recreation Commission.

(15) "Conversion" means any real property acquisition or development that is later wholly or in part converted to another use other than its intended and stated use as described in the grant application and the grant agreement.

(16) "Correspondence Course and Self Test" means either a Class I or a Class III ATV safety course and examination provided by the OPRD that is taken at home without a proctor. This correspondence course and self test will satisfy minimum standard of ATV safety education competency only for those individuals who have qualified for hardship status.

(17) "Dealer" means any person or business duly certified under ORS 822.020 and 822.040 to sell Class I or Class III ATV's.

(18) "Development" means the planning, design, construction and improvement of ATV recreational facilities, trails, and riding areas.

(19) "Director" means the director of the Oregon Parks and Recreation Department.

(20) "Dry Weight" means the unloaded weight, absent of all fluids, passengers, and any materials such as ice, snow or mud.

(21) "Emergency Medical Services" means medical services performed by certified personnel and the necessary items to perform their duties.

(22) "Endorsement Code" means an identifying color or mark on the ATV Safety Education Card that indicates whether the operator has successfully passed either the internet on-line education program or a hands-on education program.

(23) "Equivalency Exam" means a comprehensive written examination created by the OPRD. The equivalency exam is intended to provide

either Class I or Class III operators, who are at least 16 years of age and have five or more years operating a Class I or a Class III vehicle, the opportunity to meet the minimum standard of ATV safety education competency without having to take an ATV safety education course.

(24) "Grant Agreement" means an agreement between the OPRD and a project sponsor describing the terms and conditions of a project and its associated grant of funds.

(25) "Grant Application" means the form and its format as developed by the OPRD that the project sponsor uses to request ATV grant funds.

(26) "Hands-on Training" means any OPRD-approved course of instruction that is offered by an OPRD-approved course provider and that provides the rider training opportunities that include appropriate all-terrain vehicles and their use on different physical terrains.

(27) "Hardship Status" means a situation or condition that prevents an individual from attending an approved safety course or taking an equivalency exam in person within a reasonable amount of time or within reasonably close proximity to the individual's place of residence. The situation or condition must also keep the individual from taking an approved Internet course. A hardship situation may allow an individual to utilize a correspondence course and self test provided by the OPRD to meet the minimum standard of safety education competency. An individual must submit a written request for hardship status. The OPRD Director or designee has the authority to grant or deny hardship status.

(28) "Internet Course" means an OPRD-approved course of instruction that is offered through the internet.

(29) "Law Enforcement Services" means law enforcement services performed by certified personnel and the necessary items to perform their duties.

(30) "Minimum Standards of ATV Safety Education Competency" means a standard of proficiency established by the OPRD that determines whether an applicant for either a Class I or Class III ATV Safety Education Card has met or exceeded the requirements of an ATV safety course.

(31) "OHV" means Off Highway Vehicle, also called ATV.

(32) "Operations and Maintenance" means the preservation, rehabilitation, restoration, operation and upkeep of the facilities, riding areas, and equipment, including the purchase of equipment necessary to perform these functions.

(33) "OPRD" means the Oregon Parks and Recreation Department.

(34) "Personal Property" means tangible property other than land: movable property including but not limited to items such as an ATV, trail repair equipment, or other movable property purchased through the ATV Grant Program.

(35) "Planning" means the research, design, engineering, environmental, and site survey of ATV recreation areas, trails, or facilities.

(36) "Project Authorization" means the grant agreement as signed by the Director or their designee and the project sponsor that authorized the project.

(37) "Project Sponsor" means the recipient of the grant funds and the responsible party for implementation of the project.

(38) "Public Lands" includes publicly and privately owned land that is open to the general public for the use of all-terrain vehicles.

(39) "Real Property" means immovable property: land together with all the property on it that cannot be moved, together with any attached rights.

(40) "Rider Fit" means the minimum physical size requirements that a Class I ATV operator under the age of 16 must meet in relationship to the vehicle to be operated as established by the OPRD and described in OAR 736-004-0115.

(41) "Saddle" means any device attached to the vehicle which is used for seating.

(42) "Successor" means a governmental entity that has agreed to accept the terms and conditions of the project sponsor's responsibilities as contained in the project sponsor's grant agreement and grant application should the project sponsor cease to exist; for example, if a club or non-profit organization should dissolve or disband. The successor shall agree to operate the project continuously for the public benefit and recreational purposes identified in the grant agreement and the grant application. If OPRD is a successor under OAR 736-004-0025(1)(e), OPRD may operate, sell, or qualify another successor to the project.

(43) "Sustainability" means using, developing, protecting, and managing the resource in a manner that enables people to meet current and future generation needs from the multiple perspective of environmental, economic, and community objectives.

(44) "Temporary ATV Safety Education Card" is a document issued by the OPRD or an approved course provider allowing the bearer to operate a Class I or Class III ATV in Oregon for a period of time not to exceed 30 days.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 6-2007, f. & cert. ef. 7-31-07; PRD 8-2008, f. & cert. ef. 10-15-08

ADMINISTRATIVE RULES

736-004-0020

Apportionment of Monies

(1) Monies in the All-Terrain Vehicle Account Fund shall be used for the following purposes:

- (a) Planning, promotion and implementation of a statewide ATV program including, but not limited to, acquisition, development and maintenance of ATV recreation areas;
- (b) Education and safety training for ATV trainers and operators;
- (c) Law enforcement and emergency services;
- (d) Costs of developing, implementing, and promoting new programs for ATV users and advising the public of areas available for all-terrain vehicle use;
- (e) Costs of coordinating between ATV user groups and the managers of public and private lands;
- (f) Costs of providing consultation and guidance to ATV user programs; and
- (g) Costs of administration of ATV programs, including, but not limited to staff support requested by the ATV-AAC.

(2) The ATV-AAC will review ATV project applications and recommend the allocation of ATV Account Funds to the commission.

(3) The ATV-AAC will review the budget for the ATV Account Fund each biennium. The ATV-AAC will recommend budget priorities to the commission.

Stat. Auth.: ORS 390.180, 390.585,

Stats. Implemented: ORS 390.180, 390.560

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0025

Grant Application Eligibility and Requirements

(1) Eligibility for funding assistance:

(a) Public agencies: Federal land managers, state agencies, and local governments that have the responsibility, or are capable of, providing a service to ATV users;

(b) Private land owners or managers: Private land owners or managers who offer public OHV recreation opportunities and will provide open public ATV recreation for a minimum prescribed period of daily or seasonal time and who will maintain the opportunity for a prescribed period of time as determined by OPRD;

(c) Clubs and non-profit organizations: ATV clubs and non-profit organizations registered with the State of Oregon for a minimum of three consecutive years;

(A) Clubs and non-profit organizations shall have in place, prior to receipt of any funding, a written agreement with a successor in which the successor agrees to operate the facility as described in the grant agreement and the grant application should the club or non-profit organization cease to exist, for example, due to disbanding or dissolution; or

(B) OPRD shall be listed on the title as successor to the property:

(i) OPRD may sell the property and shall deposit the net revenue from the sale into the ATV Account Fund;

(ii) OPRD may operate the project; or

(iii) OPRD may qualify and assign another successor to the project.

(2) ATV Projects or components not eligible for funding:

(a) Overtime is generally not eligible for funding except for an identified emergency situation;

(b) Overhead items such as office or building rent, insurance, depreciation and other fixed costs associated with the normal everyday operation of a business, agency or group;

(c) ATV projects that have no way to measure completion or specific intent are not eligible;

(d) Portions of projects completed prior to an ATV agreement or after the expiration of an ATV agreement;

(e) ATV projects that do not meet the goals of the ATV Grant Program or are not in the best interest of ATV recreation;

(f) Vehicle or other personal property usage unrelated to the scope of the ATV project.

(3) Requirements for Match:

(a) The minimum match required for eligible ATV projects is 20 percent of the total project cost except for land acquisitions;

(b) For land acquisitions and when unusual circumstances exist, public agencies may request a partial or full waiver of the 20 percent match requirement. Consideration for the waiver will be based upon the following criteria:

(A) The public agency is able to demonstrate due diligence was exercised in obtaining other funds and that the following limitations, among others, are present:

(i) Budget authority does not exist;

(ii) Budget appropriations cannot be obtained in a reasonable time yet public support does exist; and

(iii) No saleable assets, such as conservation easements, exist from which to generate the full cash match requirement.

(B) The public agency is able to demonstrate their ability to operate and maintain the project property for ATV recreational purposes:

(i) By having budgeted funds in place; or

(ii) Having identified other resources such as volunteers or contracted services.

(C) The public agency is able to demonstrate that time is of the essence:

(i) The seller of the real property has placed time limits in which the public agency can affect a purchase, such as the expiration of an Option to Purchase or a First Right of Refusal; or

(ii) The public agency can identify the possible loss of other existing matching funds such as grants from other entities that may have an expiration date.

(D) If a waiver to the required partial or full match is approved, the public agency shall be limited in all future grant requests to receiving ATV grant funds in an amount of 50 percent or less of the total costs for any development projects located on the acquired property.

(c) Match may include, but is not limited to, cash funds, labor, either force account or volunteer, materials, and equipment;

(d) Grants from other sources may be used as match provided the sponsor can certify the funds will be available within 120 days from the beginning date of the ATV project agreement;

(e) Eligible volunteer labor will require a log that includes the volunteer's name, date volunteer performed work, location volunteer performed work, the hours worked, and the hourly rate of compensation used for their contribution of labor.

(4) Conversions:

(a) It is the intent of the ATV Grant Program that all real property acquisitions or easements shall be retained and used for the project's intended and stated use as described in both the grant application and the grant agreement;

(b) The director has authority to disapprove conversion requests, reject proposed substitutions, or both;

(c) The project sponsor shall submit requests for conversions to the OPRD in writing. The OPRD may consider the request if the following prerequisites are met:

(A) All practical alternatives to a conversion have been evaluated and rejected on a sound basis;

(B) The project sponsor has established the fair market value of the property to be converted and the property proposed for substitution is of at least equal fair market value as established by a state-approved appraisal (prepared in accordance with uniform Federal appraisal standards) excluding the value of structures or facilities that will not directly enhance its ATV recreation utility;

(C) The project sponsor proposes a replacement property that is of reasonably equivalent usefulness and location as that being converted.

(d) If the project sponsor is unable to provide replacement property within 24 months of either the approved request for conversion or after the fact of conversion, the project sponsor shall pay the OPRD a current amount equal to the OPRD's original percentage of contribution to the project. As an example, if the OPRD provided an original grant of 80 percent for the project's acquisition costs, the project sponsor will be required to reimburse the OPRD 80 percent of the real property's value at the time of conversion or discovery of conversion, whichever is later;

(e) In the case of development, rehabilitation, and equipment purchases, the project sponsor shall operate the improvements or equipment for its established useful life. Guidelines established by the IRS will be used by the project sponsor to define useful life per each item. If the facility is closed, service is terminated and the facility or equipment has not reached its useful life, it will be made available to other agencies or organizations. If a facility is closed, service is terminated, or land is closed, or the facility or equipment has not reached its useful life, a percentage of the allocated funds will be returned to the OPRD equal to the percentage of useful life remaining in the funded facility or equipment.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 6-2007, f. & cert. ef. 7-31-07; PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0030

Project Administration

(1) Applications:

(a) A current ATV grant application is required for consideration of ATV funding;

(b) Information regarding application deadlines and public meetings will be provided through available media sources and on the OPRD — ATV website;

(c) Applicants must submit applications by published deadlines;

(d) Applications will be reviewed by the OPRD and the ATV-AAC;

ADMINISTRATIVE RULES

(e) The ATV-AAC will recommend ATV project funding to the commission.

(2) Agreements:

(a) To authorize an ATV Project, OPRD requires a signed ATV Grant Agreement;

(b) A project sponsor may not begin work on an ATV project without a Notice to Proceed.

(c) OPRD, upon written request by the project sponsor, may approve, in writing, that some match may be considered and allowed prior to commencement of the project.

(3) If funds are not available to fully fund a project, or partial funding has been recommended by the ATV-AAC, the sponsor may be given the option of reducing the scope of the project.

(4) If the project sponsor anticipates the project will not be completed by the expiration date of the ATV grant agreement, the project sponsor must make a timely written request for an extension of the ATV grant agreement prior to the expiration date of the project agreement. The time extension request shall include any reasons for delay of project completion and a new projected completion date.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 5-2000, f. 5-3-00, cert. ef. 5-5-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 6-2007, f. & cert. ef. 7-31-07; PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0045

ATV Operating Permit Agent Application and Privileges

(1) To become an ATV Operating Permit Agent an applicant shall:

(a) Submit an application in a form provided by OPRD to become an ATV Operating Permit Agent;

(b) Submit a surety bond in an amount determined by OPRD when 250 or more permits are to be ordered at a time.

(c) Enter into an OPRD agreement to be designated as an ATV Operating Permit Agent.

(2) OPRD may consign ATV operating permits to an ATV Operating Permit Agent without prepayment.

(3) OPRD will establish by policy an amount the ATV Operating Permit Agent may retain for each permit issued in addition to the regular costs of the permit, to cover the agent's costs to handle the permits.

(4) ATV Operating Permit Agents shall legibly complete each ATV operating permit with the required information.

(5) OPRD may cancel an agent's authority to act as an ATV Operating Permit Agent at any time.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 8-2000, f. & cert. ef. 6-2-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0060

ATV Operating Permit

(1) An ATV operating permit shall be in the form of a decal valid for a two-year period from the date of issue to be placed on the vehicle as determined in OAR 736-004-0065. All ATV operating permits shall include on the decal:

(a) The distinctive number or characters assigned by OPRD to the vehicle;

(b) The word "Oregon"; and

(c) The expiration date.

(2) The application for an ATV off-road operating permit shall be in a form as prescribed by OPRD and shall include:

(a) The name and address of the owner of the ATV; and

(b) The make and body style of the ATV for which application is made.

(3) To replace a permit that is lost, destroyed, mutilated or needs to be replaced for any reason, the owner must:

(a) Apply for a new permit in the same manner as for an original permit; and

(b) Pay the fee for a replacement ATV Operating Permit.

(4) The fee for an original or replacement ATV Operating Permit is \$10.00.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 8-2000, f. & cert. ef. 6-2-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0062

Ocean Shores Operating Permit

(1) A person may not operate a Class I all-terrain vehicle on the ocean shore unless the person obtains an Ocean Shores ATV Operating Permit from OPRD.

(2) The operator must, in addition to the Ocean Shores ATV Operating Permit, hold a current ATV Safety Education Card issued under

ORS 390.570 and the vehicle must have a current operating permit issued under ORS 390.580.

(3) The Ocean Shores ATV Operating Permit is to be used only to meet the transportation needs of:

(a) Individuals with disabilities, as defined by ORS 174.107; or who have proof of motor vehicle disabled placard, or both.

(b) Emergency response or emergency aid workers during the course of their work; or

(c) Biologists, wildlife monitors, or other natural resources workers during the course of their work.

(4) Except for subsections (3)(b) and (c) the Ocean Shores ATV Operating Permit only allows the operator to ride in those ocean shore areas where and when other authorized motorized vehicles are allowed.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.729

Hist.: PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0065

Placement of ATV Off-Road Operating Permit

(1) An ATV off-road operating permit shall be in the form of a decal to be permanently affixed to the vehicle for which it is issued, and must be clearly visible.

(2) Placement of the permit shall be as follows:

(a) For quads, three-wheelers, or vehicles of a similar design, the permit shall be displayed on the right-hand side of the vehicle in a visible location;

(b) For jeeps, pickups, passenger cars and similar vehicles, the permit shall be displayed in a manner that makes it visible from the rear of the vehicle, such as on the bumper or in the rear window;

(c) On sandrail vehicles (dune buggies) the permit shall be displayed in the middle of the rear rollbar and be visible from the rear of the vehicle; and

(d) For vehicles that are similar in design to motorcycles and where it is not possible to display the permit as required in sections (2) or (3) of this rule, the permit shall be displayed:

(A) On the front fork tube, on the opposite side of the vehicle from the brake, or in a location that is visible while the rider is on the vehicle; and

(B) Be positioned either horizontally or vertically.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 8-2000, f. & cert. ef. 6-2-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0070

Reciprocity for Out-of-State ATV Operating Permits

(1) An ATV operating permit issued by another state shall be honored in the State of Oregon if the issuing state also honors an Oregon ATV operating permit.

(2) The ATV must have a resident state ATV operating permit; or

(3) If an ATV operating permit is not required in the owner's home state, the operator must purchase a State of Oregon ATV operating permit to operate the ATV on designated ATV areas in Oregon.

Stat. Auth.: ORS 390.180, 390.585

Stats. Implemented: ORS 390.180

Hist.: PRD 8-2000, f. & cert. ef. 6-2-00; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0080

ATV Safety and Education

(1) Any person who provides a Class I or Class III ATV for rent in Oregon or offers guided tours for a client on either a Class I or Class III ATV must require that:

(a) The operator(s) of the rental ATV show proof of possession of an ATV Safety Education Card before renting the person an ATV; or

(b) If the operator does not possess an ATV Safety Education Card, the rental or tour agent must provide the operator with an ATV Safety Checklist provided by the OPRD;

(c) The operator must review and mark the ATV Safety Checklist in the presence of the rental or tour agent before they may operate the ATV; and

(d) The operator must retain the ATV Safety Checklist in their possession while operating the ATV.

(2) A person who legally rents an ATV and is otherwise required to possess an ATV Safety Education Card may use the required ATV Safety Checklist as a temporary ATV Safety Education Card and may operate the rental ATV in Oregon for the term of the rental agreement but not longer than 30 days.

(3) Any dealer who sells Class I or Class III vehicles may offer to the buyer/operator a non-renewable ATV Safety Checklist provided by OPRD.

(a) The operator must review and mark the ATV Safety Checklist in the presence of the dealer before they operate the vehicle; and

ADMINISTRATIVE RULES

(b) The operator must retain the ATV Safety Checklist in their possession when operating the ATV.

(c) A person who purchases an ATV and is otherwise required to possess an ATV Safety Education Card may use the ATV Safety Checklist as a temporary ATV Safety Education Card and may operate the ATV in Oregon for not longer than 30 days from the date of purchase of the ATV.

Stat. Auth.: ORS 390.570 & 390.575

Stats. Implemented: ORS 390.570 & 390.575

Hist.: PRD 2-2001, f. & cert. ef. 2-23-01; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0085

ATV Safety Education Card (ATV Operator Permits)

(1) To operate a Class I or Class III ATV on public lands in Oregon, a person must obtain an ATV Safety Education Card (ATV operator permit).

(2) The criteria for obtaining an ATV Safety Education Card are:

(a) Attain a test score of at least 80 percent on an OPRD-approved safety course offered over the internet; or

(b) Attain a test score of at least 80 percent on a correspondence course provided by OPRD; and

(c) Be at least 16 years of age and have five or more years of experience operating a Class I or Class III all-terrain vehicle and successfully pass an equivalency examination with a score of at least 80 percent.

(d) Effective January 1, 2012, if under 16 years of age, must have successfully passed a hands-on training course approved by OPRD.

(3) To obtain an ATV Safety Education Card, the applicant must provide to the OPRD a completed application on a form provided by the OPRD with the following information: the applicant's name, address, date of birth, hair color, eye color, gender, and, if applicable, year's of experience. The applicant must also sign a statement declaring that the information is true and correct.

(4) ATV Safety Education Cards are not transferable.

(5) ATV Safety Education Cards shall contain a unique number and endorsement code that corresponds to the individual named on the permit.

(6) A person is considered in violation of the provisions of ORS 821.170 and 821.172 and subject to penalties prescribed by law when they:

(a) Provide a false statement or information or assist another person in giving a false statement or information on any application, affidavit, document or statement used to obtain an ATV Safety Education Card or replacement ATV Safety Education Card;

(b) Exhibit to a law enforcement officer an altered Oregon ATV Safety Education Card or any ATV Safety Education Card other than the one issued to them;

(c) Alter an ATV Safety Education Card or replacement card issued by the OPRD or its authorized agent;

(d) Produce or possess an unauthorized replica of an ATV Safety Education Card or replacement card; or

(e) Operate a Class I or Class III ATV on public lands without a current ATV Safety Education Card in their immediate possession.

(7) In addition to any penalties that may result from a violation of ORS 821.170 and 821.172, the ATV Safety Education Card is null and void for any person who provides a false statement or information or obtains a permit to which the person is not entitled.

(8) In accordance with ORS 821.174, when a person's driving privileges are suspended or revoked, an ATV Safety Education Card is invalid, and the person may not operate a Class I or Class III all terrain vehicle.

(9) Violation of the provisions contained in OAR 736-004-0085 is punishable as a Class A Misdemeanor.

Stat. Auth.: ORS 390.570 & 390.575

Stats. Implemented: ORS 390.570, 390.575 & 821.174

Hist.: PRD 2-2001, f. & cert. ef. 2-23-01; PRD 4-2007, f. & cert. ef. 4-13-07; PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0090

Replacement ATV Safety Education Card

(1) A person may apply for a replacement ATV Safety Education Card from the OPRD if:

(a) They legally change their name;

(b) The permit is lost, stolen or destroyed; or

(c) Misinformation is printed on the permit.

(2) To obtain a replacement card, an applicant must provide the OPRD with a completed application form provided by the OPRD which includes an affidavit signed by the applicant stating the circumstances that led to the replacement of the original card.

Stat. Auth.: ORS 390.570 & 390.575

Stats. Implemented: ORS 390.570, 390.575 & 821.174

Hist.: PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0095

Temporary ATV Safety Education Card

(1) A person who successfully passes the OPRD safety education course may print from their computer a temporary safety education card

and may operate an ATV for no more than 30 days from date of issue provided the temporary safety education card is in the possession of the operator.

(2) A person residing in Oregon who is required to possess an ATV Safety Education Card and is in possession of a certificate issued by another state or nation that is equivalent to Oregon's ATV Safety Education Card may use that certificate as a Temporary Safety Education Card and may operate an ATV in Oregon for no more than 30 days from date of residency provided the document is in the possession of the operator.

Stat. Auth.: ORS 390.570 & 390.575

Stats. Implemented: ORS 390.570, 390.575 & 821.174

Hist.: PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0100

ATV Safety Checklist

(1) Any person who provides a Class I or Class III ATV for rent in Oregon or offers guided tours for a client on either a Class I or Class III ATV must require that:

(a) The operator(s) of the rental ATV show proof of possession of an ATV Safety Education Card before renting the person an ATV; or

(b) If the operator does not possess an ATV Safety Education Card, the rental or tour agent must provide the operator with an ATV Safety Checklist provided by the OPRD;

(c) The operator must review and mark the ATV Safety Checklist in the presence of the rental or tour agent before they may operate the ATV; and

(d) The operator must retain the ATV Safety Checklist in their possession while operating the ATV.

(2) A person who legally rents an ATV and is otherwise required to possess an ATV Safety Education Card may use the required ATV Safety Checklist as a temporary ATV Safety Education Card and may operate the rental ATV in Oregon for the term of the rental agreement but not longer than 30 days.

(3) Any dealer who sells Class I or Class III vehicles may offer to the buyer/operator a non-renewable ATV Safety Checklist provided by OPRD.

(a) The operator must review and mark the ATV Safety Checklist in the presence of the dealer before they operate the vehicle; and

(b) The operator must retain the ATV Safety Checklist in their possession when operating the ATV.

(c) A person who purchases an ATV and is otherwise required to possess an ATV Safety Education Card may use the ATV Safety Checklist as a temporary ATV Safety Education Card and may operate the ATV in Oregon for not longer than 30 days from the date of purchase of the ATV.

Stat. Auth.: ORS 390.570 & 390.575

Stats. Implemented: ORS 390.570, 390.575 & 821.174

Hist.: PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0105

Exemptions

(1) Non-residents riding in Oregon are exempt from carrying a State of Oregon ATV Safety Education Card if they possess an ATV Safety Education Card or equivalent issued by their resident state or nation.

(a) An ATV Safety Education Card issued in another state or nation shall be honored in the State of Oregon if the issuing state or nation also honors an Oregon ATV Safety Education Card.

(b) The operator must have a State of Oregon ATV Safety Education Card if mandatory education is not required in their home state or nation to operate an ATV on public lands.

(2) A person operating a Class I or Class III in a sanctioned competitive ATV event is not required to carry an ATV Safety Education Card.

Stat. Auth.: ORS 390.570 & 390.575

Stats. Implemented: ORS 390.570, 390.575 & 821.174

Hist.: PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0110

Fees

(1) There is no fee for issuance of the original ATV Safety Education Card.

(2) The replacement fee for an ATV Safety Education Card is \$8.00. The fee is waived if a replacement is required because of an OPRD error.

Stat. Auth.: ORS 390.570 & 390.575

Stats. Implemented: ORS 390.570, 390.575 & 821.174

Hist.: PRD 8-2008, f. & cert. ef. 10-15-08

736-004-0115

Rider Fit

(1) A Class I ATV operator under the age of 16 must meet all the following minimum physical size requirements in relationship to the vehicle:

(a) Brake Reach: With hands placed in the normal operating position and fingers straight out, the first joint (from the tip) of the middle finger will extend beyond the brake lever and clutch;

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(b) Leg Length: While sitting and with their feet on the pegs, the knee must be bent at least 45 degrees;

(c) Grip Reach: While sitting upright on the ATV with hands on the handlebars and not leaning forward, there must be a distinct angle between the upper arm and the forearm; and

(d) The rider must be able to turn the handlebars from lock to lock while maintaining grip on the handlebars and maintaining the throttle and brake control.

(2) Disabled riders are allowed to use prosthetic devices or modified or adaptive equipment to achieve rider fit.

Stat. Auth.: ORS 390.570 & 390.575

Stats. Implemented: ORS 390.570, 390.575 & 821.174

Hist.: PRD 8-2008, f. & cert. ef. 10-15-08

Rule Caption: Historic Preservation Officer Procedural Rules — housekeeping clarification regarding required notice of proposed rulemaking.

Adm. Order No.: PRD 9-2008

Filed with Sec. of State: 10-15-2008

Certified to be Effective: 10-15-08

Notice Publication Date: 8-1-2008

Rules Amended: 736-050-0002

Subject: Housekeeping clarification regarding required notice of proposed rulemaking to include Legislators and to the Capitol Press Room.

Rules Coordinator: Joyce Merritt—(503) 986-0756

736-050-0002

Notice of Proposed Rules

Prior to the adoption, amendment, or repeal of any permanent rule, the State Historic Preservation Officer shall give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360, at least 21 days before the effective date of the rule;

(2) By mailing a copy of the notice to persons on the State Historic Preservation Officer's mailing list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule; and

(3) By mailing a copy of the notice to the legislators specified in ORS 133.335(15) at least 49 days before the effective date of the rule; and

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

(a) The Associated Press; and

(b) The Capitol Press Room.

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.341(4)

Hist.: HPO 2, f. & ef. 9-10-76; PR 2-1992, f. & cert. ef. 5-1-92; PR 13-1994, f. & cert. ef. 12-5-94; PRD 9-2008, f. & cert. ef. 10-15-08

Public Utility Commission

Chapter 860

Rule Caption: In the Matter of Housekeeping Changes to OAR 860-039-0015(2)(a).

Adm. Order No.: PUC 4-2008

Filed with Sec. of State: 10-9-2008

Certified to be Effective: 10-9-08

Notice Publication Date: 9-1-2008

Rules Amended: 860-039-0015

Subject: The amendment to OAR 860-039-0015 makes a housekeeping change to subsection (2)(a) of the rule by taking information previously formatted as a table and placing it in paragraph form. Making tis formatting change facilitative the publishing of information in the official version of the rule on the Secretary of State's website and, as a result, makes it easier for the public to find the information.

Rules Coordinator: Diane Davis—(503) 378-4372

860-039-0015

Installation, Operation, Maintenance, and Testing of Net Metering Facilities

(1) Except for customer-generators established as net metering customers prior to the effective date of this rule, a customer-generator of a public utility must install, operate and maintain a net metering facility in compliance with the IEEE standards.

(2) Except for customer-generators established as net metering customers prior to the effective date of this rule, a customer-generator of a public utility must install and maintain a manual disconnect switch that will

disconnect the net metering facility from the public utility's system. The disconnect switch must be a lockable, load-break switch that plainly indicates whether it is in the open or closed position. The disconnect switch must be readily accessible to the public utility at all times and located within 10 feet of the public utility's meter.

(a) For customer services of 600 volts or less, a public utility may not require a disconnect switch for a net metering facility that is inverter-based with a maximum rating as shown below.

(A) Service type: 240 Volts, Single-phase, 3 Wire — Maximum size 7.2 kW.

(B) Service type: 120/208 Volts, 3-Phase, 4 Wire — Maximum size 10.5 kW.

(C) Service type: 120/240 Volts, 3-Phase 4 Wire — Maximum size 12.5 kW.

(D) Service type: 277/480, 3-Phase, 4 Wire — Maximum size 25.0 kW.

(E) For other service types, the net metering facility must not impact the customer-generator's service conductors by more than 30 amperes.

(b) The disconnect switch may be located more than 10 feet from the public utility meter if permanent instructions are posted at the meter indicating the precise location of the disconnect switch. The public utility must approve the location of the disconnect switch prior to the installation of the net metering facility.

(3) The customer-generator's electric service may be disconnected by the public utility entirely if the net metering facility must be physically disconnected for any reason.

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

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.300

Hist.: PUC 8-2007, f. & cert. ef. 7-27-07; PUC 4-2008, f. & cert. ef. 10-9-08

Racing Commission

Chapter 462

Rule Caption: Amends procedural, horse racing, account wagering and multi-jurisdictional simulcasting and interactive totalizer hub rules.

Adm. Order No.: RC 2-2008

Filed with Sec. of State: 9-30-2008

Certified to be Effective: 9-30-08

Notice Publication Date: 8-1-2008

Rules Adopted: 462-001-0006, 462-001-0008, 462-120-0055, 462-140-0025, 462-140-0125

Rules Amended: 462-001-0000, 462-001-0005, 462-110-0010, 462-110-0020, 462-120-0040, 462-120-0050, 462-120-0060, 462-120-0070, 462-120-0090, 462-120-0100, 462-120-0110, 462-120-0120, 462-130-0010, 462-130-0020, 462-130-0040, 462-130-0050, 462-130-0060, 462-140-0010, 462-140-0030, 462-140-0040, 462-140-0060, 462-140-0070, 462-140-0100, 462-140-0130, 462-140-0140, 462-140-0150, 462-140-0170, 462-140-0180, 462-140-0190, 462-140-0230, 462-140-0290, 462-140-0310, 462-140-0320, 462-140-0340, 462-140-0360, 462-140-0370, 462-150-0010, 462-150-0030, 462-150-0040, 462-150-0050, 462-150-0060, 462-150-0070, 462-150-0080, 462-150-0090, 462-150-0100, 462-150-0110, 462-160-0110, 462-160-0120, 462-160-0130, 462-160-0140, 462-220-0060

Rules Repealed: 462-140-0110, 462-140-0120

Subject: The cited rules are amendments to: (1) procedural rules; (2) horse racing rules which include licensing procedures, prohibited conduct and hearing procedures, duties, racing requirements and procedures, and medication and miscellaneous provisions; and (3) rules regarding clarification on where a wager is considered to have been made.

Rules Coordinator: Carol N. Morgan—(971) 673-0208

462-001-0000

Notice of Proposed Rule

Prior to the adoption, amendment, or repeal of any rule, the Racing Commission shall give notice of the proposed adoption, amendment, or repeal:

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

(2) By mailing a copy of the notice to persons on the Oregon Racing Commission's mailing list established pursuant to ORS 183.335(6).

(3) By posting a copy of the notice and proposed rule amendments on the Oregon Racing Commission's website: <http://racing.oregon.gov>.

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(4) By mailing a copy of the notice to the following persons, organizations, or publications listed where the Commission determines that such persons, organizations, or publications would have an interest in the subject matter of the proposal:

- (a) Oregon Horsemen's Benevolent and Protective Association;
- (b) Oregon Thoroughbred Owners and Breeders Association;
- (c) Oregon Quarter Horse Racing Association;
- (d) Appaloosa Racing Association;
- (e) Portland Meadows;
- (f) County Fair Associations;
- (g) The Jockey's Guild;
- (h) Oregon Greyhound Association;
- (i) Licensed Advanced Deposit Wagering Companies.

Stat. Auth.: ORS 183

Stats. Implemented: ORS 462.270(3)

Hist.: RC 60(Temp), f. & ef. 4-23-76; RC 63, f. 6-23-76, ef. 7-1-76; RC 7-1986, f. & ef. 7-31-86; RC 2-2008, F. & cert. ef. 9-30-08

462-001-0005

Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Oregon Racing Commission adopts the current version of the Attorney General's Model Rules of Procedure under the Administrative Procedures Act, except Stewards and Judges Hearings and Appeals to the Commission will be handled as set forth in Rules of Racing OAR chapter 462, division 130 by authority of ORS 462.270(3).

[ED.NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the Office of the Attorney General or Racing Commission.]

Stat. Auth.: ORS 183

Stats. Implemented: ORS 462.270(3)

Hist.: RC 41, f. 2-15-71, ef. 1-1-72; RC 45, f. 12-6-73, ef. 12-25-73; RC 62, f. 4-27-76, ef. 5-6-76; RC 1-1978, f. & ef. 3-7-78; RC 6-1981, f. & ef. 12-11-81; RC 7-1986, f. & ef. 7-31-86; RC 2-2008, F. & cert. ef. 9-30-08

462-001-0006

Requiring an Answer to Charges as Part of Notices to Parties in Contested Cases

In addition to the notice requirements under the Attorney General's Model Rules of Procedures adopted under OAR 462-001-0005, the notice to parties in contested cases may include a statement that an answer to the assertions or charges will be required, and if so, the consequence of failure to answer. A statement of the consequences of failure to answer may be satisfied by enclosing a copy of OAR 462-001-0008 with the notice.

Stat. Auth.: ORS 462

Stats. Implemented: ORS 183

Hist.: RC 2-2008, F. & cert. ef. 9-30-08

462-001-0008

Hearing Request and Answers; Consequences of Failure to Answer

(1) A hearing request and answer shall be made in writing to the executive director by the party or the party's attorney. To be considered timely, a request for a hearing and answer must:

(a) Be in writing; and

(b) Be received by the commission within ten (10) calendar days from the date the Notice was served.

(2) If an answer is required in the Notice, it shall include the following:

(a) An admission or denial of each factual matter alleged in the Notice;

(b) A short and plain statement of each relevant affirmative defense the party may have; and

(c) A short and plain statement identifying each legal issue the party may have.

(3) A request for extension of time in which to file an answer to the Notice shall be submitted in writing and must be received by the commission within ten (10) calendar days from the date the Notice was served. Extensions shall be granted only upon a showing of good cause.

(4) Any amendments to answers must be submitted in writing and must be received by the commission not less than 21 days prior to the contested case hearing.

(5) Except for good cause:

(a) Factual matters alleged in the Notice and not denied in the answer shall be presumed admitted;

(b) Failure to raise a particular defense or legal issue in the answer will be considered a waiver of such defense or legal issue;

(c) New matters raised in the answer that were not alleged in the Notice (affirmative defenses) shall be presumed to be denied by the commission; and

(d) Evidence shall not be taken on any issue not raised in the Notice and the answer.

(6) A hearing request and answer shall be deemed untimely if it is received by the commission after the close of business (5:00 p.m.) on or

after the 10th calendar day from the date the Notice was mailed, and shall be deemed a default by the party. Unless the commission determines that the late filing was beyond the control of the party, the commission may issue a final order by default.

Stat. Auth.: ORS 462

Stats. Implemented: ORS 183.413

Hist.: RC 2-2008, F. & cert. ef. 9-30-08

462-110-0010

General

The following definitions and interpretations shall apply in these rules unless otherwise indicated or text otherwise requires (Words of the masculine gender include the feminine and neuter. Words in the singular include the plural and vice versa.):

(1) "Authorized User": A person authorized by the Oregon Racing Commission to receive, to decode and to use for legal purposes the encrypted signal of racing events in Oregon.

(2) "Combined Pari-Mutuel Pools", "Combined Pools": The pari-mutuel wagers at one or more off-track wagering facilities being contributed into the pari-mutuel pools of an Oregon host race meet licensee.

(3) "Commission": Oregon Racing Commission. Commissioner is a member of the commission.

(4) "Day" "Race Day" and "Simulcast Day": Any 24 hour period beginning at 12:01 a.m. and ending at midnight. "Racing Day" is a day on which live races are conducted at a race track in Oregon. "Calendar Days" are those consecutive days counted irrespective of number of racing days. "Simulcast Day" is a day that races from an out-of-state track are being simulcast into a track in Oregon on a day that there are no live races being run at the Oregon track. Simulcast days may only occur on days that fall within the period of time for which a race meet license has been granted by the commission. Unless otherwise specified, use of the word "day" shall mean a calendar day. In calculating the average daily handle for race meets, any race day in which some of the day's races are canceled due to natural occurrences, as determined by the commission, will be counted as a partial race day in the same proportion as the number of races actually run by the number of races carded to be run in the day's racing program.

(5) "Decoder": A device and/or means to convert encrypted audiovisual signals and/or data into a form recognizable as the original content of the signals.

(6) "Drug": As defined in ORS 462.010(5).

(7) "Encryption", "Encrypted", "Encoded": The scrambling or other manipulation of the audiovisual signals to mask the original video content of the signal and so cause such signals to be indecipherable and unrecognizable to any person receiving such signal without using a decoder.

(8) "Exotic Wager": Any single wager where three or more separate wagering interests are required to be selected.

(9) "Host", "Host Association", "Host Track": The race track licensee conducting a licensed race meet when it is authorized by the Oregon Racing Commission to simulcast racing programs.

(10) "Hub": A multi-jurisdictional simulcasting and interactive wagering totalizator hub is a business that, through a qualified subscriber based service, conducts pari-mutuel wagering on the races that it simulcasts and other races that it carries in its wagering menu.

(11) "Intrastate Wagering": Pari-mutuel wagering at an off-track wagering facility on Oregon racing events being run at an Oregon host race meet licensee.

(12) "Licensee": Any person or entity holding a currently valid Oregon Racing Commission license to engage in racing or related regulated activities.

(13) "Month": A calendar month.

(14) "Off-Track Enclosure", "Enclosure-Public": All areas of the off-track wagering facility.

(15) "Off-Track Wagering": Pari-mutuel wagering conducted on a race at a location other than the racecourse where the race is actually held.

(16) "Off-Track Wagering Facility", "Intrastate Wagering Facility", "Extended Wagering Facility": The physical premises, including parking areas, structures and equipment utilized by a race meet licensee for the conduct of pari-mutuel wagering on racing events being run elsewhere.

(17) "Out-of-State Wagering": Acceptance of wagers by a race meet licensee authorized by ORS 462.062 or 462.067 on a race or races run outside of the State of Oregon.

(18) "Person": Unless the context clearly shows otherwise, person as used in these rules includes individuals, partnerships, corporations, political subdivisions and municipal corporations.

(19) "Post Position": The starting position assigned to a horse/greyhound at the time the race is drawn.

(20) "Purse": The gross cash portion of the prize for which a race is run.

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(21) "Race": An official contest among racing animals for purse or other prize at any recognized race meet and in the presence of the officials of the track as defined by ORS 462.010(10).

(22) "Race Meet Licensee": A person, partnership, corporation, or any other body conducting a licensed race meeting in Oregon.

(23) "Racecourse": The entire area licensed to the race meet licensee, as defined in ORS 462.010(11).

(24) "Recognized Race Meet": Any race meet which is under the jurisdiction of an official racing commission or other official racing body.

(25) "Revocation": The withdrawal of license privileges for all licenses held unless stated otherwise within the order. Revocations also include denial of access to all areas of the racecourse and all off-track wagering sites in Oregon and all other areas under the jurisdiction of the commission unless otherwise stated in the order. An individual who has had his/her license privileges revoked will remain revoked until such time the commission takes official action to reinstate the license.

(26) "Runner": As used in many places designates either a horse or a greyhound.

(27) "Sending Track": The race track from which a simulcast emanates for interstate wagering.

(28) "Simulcast", "Simulcasting":

(a) Live audiovisual electronic signals emanating from a licensed race meeting and transmitted simultaneously with the running of the racing events at that meeting, and includes the transmission of pari-mutuel wagering odds, amounts wagered and payoff on such events, and other racing programming relating to the race animals or participants, or

(b) Such other form of electronic signals of animal racing as is approved by the commission.

(29) "Simulcast Operator": A person with a contract with the host race meet licensee, and authorized by the Oregon Racing Commission to operate a simulcast wagering system.

(30) "Simulcast Service Supplier": A person engaged in providing service, supplies or equipment necessary to the operation of intrastate or out-of-state simulcast wagering for use by the host race meet licensee, authorized user, including pari-mutuel wagering terminals, television receivers and related equipment.

(31) "Suspension": The withdrawal of license privileges for a period of time. Suspensions also include denial of access to all areas of the racecourse and all off-track wagering sites in Oregon and all other areas under the jurisdiction of the commission unless otherwise stated in the order.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2003, f. & cert. ef. 4-23-03; RC 2-2008, F. & cert. ef. 9-30-08

462-110-0020

Horse Racing

The following definitions and interpretations shall apply in the rules unless otherwise indicated or text otherwise requires (Words of the masculine gender include the feminine and neuter. Words in the singular include the plural and vice versa.):

(1) "Added Money": Cash, exclusive of trophy or other award, added by the race meet licensee to stake fees paid by subscribers to form the total purse for a stakes race.

(2) "Age": The age of a horse is calculated as beginning on the first of January in the year in which the horse is foaled.

(3) "Allowance": Weights and other conditions of a race.

(4) "Allowance Race": A race where there are both allowances and penalties, according to the conditions of the race, on monies or races won.

(5) "Appropriate Horse Registry": For Thoroughbreds, the registry office of the Jockey Club (Lexington, Kentucky); for Quarter Horses, the American Quarter Horse Association (Amarillo, Texas); for Appaloosa horses, the Appaloosa Horse Club, Inc. (Moscow, Idaho); for Paint horses, the American Paint Horse Association (Fort Worth, Texas); for Arabians, the Arabian Horse Registry of America (Denver, Colorado); and for mules, the American Donkey and Mule Society (Lewisville, TX).

(6) "Bleeder": Any horse known to have externally bled from its respiratory tract during a workout or race, and so designated by the commission veterinarian or any horse that has internal bleeding that is observed by the commission veterinarian through endoscopic examination.

(7) "Bleeder List": A tabulation of bleeders to be maintained by the commission.

(8) "Blocked": Where there is no feeling in an injured area.

(9) "Breakage": The odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple to ten cents or to five cents in accordance with ORS 462.140.

(10) "Breeder": The owner of the dam of a horse at the time the horse was foaled. A horse is "bred" at the place of its foaling.

(11) "Carded": Scheduled and placed on the daily racing program.

(12) "Claim Certificate" (Open Claim Certificate): A written document issued by the commission which permits a person to enter a claim for a horse without having a foal certificate in the race office.

(13) "Claiming Race": A race in which all horses may be claimed and purchased for the amount specified in the conditions for that race by any person meeting the requirements of OAR 462-150-0030(2).

(14) "Complaint": A written allegation of a violation of these rules or ORS Chapter 462.

(15) "Derby": A race exclusively for 3-year-olds, except for Arabians which is for 4-year-olds.

(16) "Designated Races": Stake and handicap races so designated by the stewards prior to the first day of the race meet.

(17) "Disqualification": An order of the stewards or commission revising the order of finish of a race.

(18) "Divided Race": A race in which there are so many entries that it is made into two separate races. A race becomes a divided race when it is announced by the racing secretary that he/she is dividing the race.

(19) "Drug": As defined in ORS 462.010(5).

(20) "Eligible": A horse which meets the conditions of the race.

(21) "Engagement": The obligation of a jockey or horse to participate in a race.

(22) "Equipment": As applied to a horse, it includes the whip, blinkers, tongue restraint, muzzle, hood, nose band, bit, shadow role, martingale, breast plate, bandages in excess of six inches in length, boots, tail tie, plates and other items as approved by the Oregon Racing Commission.

(23) "Foal Certificate" or "Registration Papers": A document issued by the appropriate horse registry used for the identification and proof of ownership of the horse.

(24) "Forfeit Money": Money due by a licensee because of error, fault, neglect of duty, or penalty imposed by order of the stewards.

(25) "Free Handicap": A race in which no liability for entrance money is incurred.

(26) "Futurity": A race for 2-year-olds, except Arabians which is for 3-year-olds, in which nominations are made a considerable time before the running of the race, often before the entered horse is born.

(27) "Handicap": A race in which the weights to be carried by the horses are assigned by the racing secretary or handicapper for the purpose of equalizing the chances of winning for all horses entered.

(28) "Horse": Any horse (including and designated as a mare, filly, stallion, colt, ridgling, or gelding) registered for racing under the jurisdiction of the commission and which requires a jockey to race.

(29) "Ineligible": A horse or person not qualified under these rules or the conditions of a race to participate in a specified racing activity.

(30) "In Today Horse": Any horse which has an opportunity to run in a race and enters again on the next day that entries are taken.

(31) "Inquiry":

(a) Action initiated by the board of stewards involving determination as to whether or not a foul has occurred during the running of a race.

(b) Investigation by the board of stewards of a violation or as a result of objection, to determine if a violation occurred.

(32) "Invitational Handicap": A handicap race for which the racing secretary has selected the contestants and assigned the weights.

(33) "Lessee": A person who holds a contract for the racing of a horse in the person's (lessee's) name.

(34) "Lessor": A person who owns a horse and who leases part or all of it to another person.

(35) "Maiden": A horse which at the time of starting has never won a race on the flat in any country on a recognized track. A maiden which has been disqualified after finishing first is still a maiden.

(36) "Match Race": A private sweepstakes between two or more horses which are the property of different owners. If prior to the running of the race any of the horses entered in the match dies or if any owner dies, the match is void. It remains a match even if money or another award is added to the stakes.

(37) "Maturity": A stakes race for four-year-olds, or four years old or older, except Arabians which is for five-year-olds, or five years old or older.

(38) "Mule": The offspring of a male donkey and a female horse. Mules shall race under the same rules as horses, unless otherwise directed by the Board of Stewards.

(39) "Nerve": To cut or remove a portion of a nerve, usually in a horse's leg, to decrease sensation.

(a) "Digital Neurectomy (Heel Nerve)": An operation performed on the digital nerve between the fetlock and the foot.

(b) "Volar Neurectomy (High Nerved)": An operation performed on the volar nerve that lies between the bottom of the knee and the fetlock joint.

(40) "Nomination": The naming of a horse for a stakes race in advance of the race.

(41) "Nominator": The person or persons who nominate a horse.

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(42) "Non-starter": A horse that was not in the starting gate when the stall doors open when the starter dispatches the horses, or in the opinion of the stewards, was prevented from receiving a fair start. The stewards may determine any horse to be a non-starter if in their opinion to do so would protect the best interest of racing.

(43) "Objection":

(a) Action initiated by the owner, trainer, or jockey of a horse, claiming foul against another horse or jockey in a race.

(b) Action, initiated by licensee, to the stewards challenging the eligibility of an entered horse, or interpretation of a rule or policy.

(44) "Oregon Bred": A horse which was foaled in Oregon.

(45) "Overnight Race": A race for which entries close 96 hours or less before the time set for the first race of the day on which the race is to be run, and to which no fees are contributed by horsemen.

(46) "Paddock": The paddock is the confined area where horses are assembled for saddling prior to a race.

(47) "Penalty": Depending upon the context:

(a) The excess of weight a horse must carry in a race because of the race's conditions; or

(b) The fining or suspension of a licensee by the stewards or the governing body having jurisdiction over the race meet.

(48) "Post": The starting point of a race.

(49) "Prize": The combined total of any cash, premium, trophy, and object of value awarded to the owners of horses according to the order of finish in a race.

(50) "Produce Race": A race made of the progeny of certain nominated stallions.

(51) "Purse Race": A race for money or any other prize to which the owners of the horses entered do not contribute.

(52) "Racing Officials":

(a) Commission officials include the presiding state steward, deputy state steward, commission veterinarians, photofinish operator, commission chief investigator, commission investigators, supervisor of licensing and pari-mutuels, commission auditors and any other commission employee designated by the commission or the executive director.

(b) Race meet licensee officials include the race meet general manager, assistant general manager, association steward, director of racing, racing secretary, paddock judge, patrol judge, jockey room supervisor, placing judges, identifier, starter, clocker, clerk of scales, stall superintendent, track superintendent, paymaster of purses, mutuel manager, assistant mutuel manager, odds maker, outriders, plate inspector, chief of security, TRPB agent and any other person designated by the commission or the executive director.

(53) "Recognized Track": A track on which official results are published in the Daily Racing Form, Equibase or other racing publication approved by the commission.

(54) "Restricted Area": Includes, but is not limited to, the office of the racing secretary, stable area enclosure, paddock area, the room occupied by the stewards, photofinish operator, video camera and control system, announcer, the pari-mutuel work areas, totalizer computer room, jockey room and weighing area, test barn area, and any other area designated as "RESTRICTED" by the commission.

(55) "Ruled Off": The act of barring a person or horse from the grounds of a race meet licensee and denying all racing and other privileges.

(56) "Rundown": A bandage on a horse's leg not exceeding six inches in height.

(57) "Scratch": The act of withdrawing an entered horse from a race.

(58) "Scratch Time": The time established and posted by the racing secretary after which no horses may be scratched, except by the stewards, or, when authorized, by the commission veterinarian or the starter.

(59) "Stable": A place to house horses.

(a) "Trainer Stable": One or more stalls assigned to a trainer.

(b) "Stable Name": An assumed name licensed to one or more owners.

(c) "Trainers Stable Name": Used for trainers advertising.

(60) "Stakes Race": A race to which nominators of the entries contribute to a purse, to which money or any other award may be added. No overnight race shall be deemed a stakes race.

(61) "Starter": A horse which is in the starting gate when the stall doors open in front of it at the time the starter dispatches the horses. The stewards may, in their discretion, determine a horse to be a nonstarter.

(62) "Starter Allowance Race": An allowance race that includes the condition that a horse must have previously started for a specified claiming price. If a horse has been claimed, it is not eligible to enter a starter allowance race for the price at which it was claimed until it has started in a claiming race in which the claiming price does not exceed the price at which it was claimed.

(63) "Starter Race": A race based upon a horse having previously started for a specified claiming price.

(64) "Stewards": The persons employed or approved by the commission who are responsible for the proper conduct of a race meet. The terms stewards and board of stewards are used interchangeably.

(65) "Subscription": The act of nominating a horse to a stakes race.

(66) "Substitute Race": A race which replaces a race already carded, but abandoned because of insufficient entries or too many scratches.

(67) "Sweepstakes": Same as "stakes race".

(68) "Unauthorized Area": Includes the stewards' stand, test barn, jockeys' room, scale room, and mutuel work areas.

(69) "Wagering Interest": A single horse, or more than one horse joined as a "mutuel entry" or joined in the "mutuel field", on which a single pari-mutuel wager may be placed.

(70) "Weigh In": The presentation of a jockey to the clerk of scales for weighing after a race.

(71) "Weigh Out": The presentation of a jockey to the clerk of scales for weighing prior to a race.

(72) "Workout": A training exercise of a horse where the horse is asked for speed over a specific distance.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, F. & cert. ef. 9-30-08

462-120-0040

Types of Licenses

(1) Every person, in order to obtain and maintain his/her qualifications for any license held by him/her, shall attest to the knowledge of the rules and statutes, including all amendments.

(2) Each person described below must have a valid license issued by the commission before participating in or beginning employment at a licensed race meet:

(a) A race meet license is required of any person or corporation who conducts pari-mutuel racing.

(b) A horse owner's license is required of every person who is shown as an owner or lessee on the horse's registration papers or foal certificate, of every person who has a right to receive any share of a purse of a horse racing in Oregon, of any lessor of any horse racing in Oregon regardless of whether that person receives any share of the purses won by the leased horse(s), and of every person who owns or operates a stable which races horses in a licensed race meet in Oregon, and any person who has a right to receive any part of a stable owner's share of a purse of a horse racing in Oregon. However, a licensed employee of a stable may receive, as part of the employee's compensation, a percentage of the stable's earnings without having a horse owner's license and without being shown on the registration papers. The stable owner must disclose the employees' percentage to the commission in writing prior to any payment to the employees. A spouse of an owner does not need to be licensed unless the spouse's name appears on the horse's registration papers or foal certificate. No person is eligible for a horse owner's license unless the person has an officially documented ownership interest in a racehorse unless otherwise approved by the stewards.

(A) Licenses are personal in nature and expire upon the death of the licensee, and therefore are void and without effect as a pre-requisite for the entry of a horse.

(B) When the decedent was the owner either in part or in full the only mechanism by which the horse(s) may be entered or run before the property rights in those horses have been fully and completely transferred through legacy, intestate succession or authorized sale, is as follows: upon presentation of letter of administration or letters testamentary issued by a court of competent jurisdiction, or small estate affidavit, the person named in the letter or affidavit shall be licensed as an authorized agent of the estate of the decedent and allowed to enter the horse(s) formerly owned by the decedent, subject to any limitations imposed by the court.

(c) An owner's license/prospective owner's license with valid claim certificate is required of any person wishing to claim a horse if they do not have an eligible race horse with its registration papers on file in the race office.

(d) A greyhound owner's license is required of every person who is shown as an owner and/or lessor on the greyhound's NGA registration papers, and of every person who has a right to receive any share of a purse of a greyhound racing in Oregon, except kennel owners and their employees who are licensed in Oregon. A spouse of an owner does not need to be licensed unless the spouse's name appears on the greyhound's NGA registration papers. If two or more individuals are listed on the greyhound's registration papers using the disjunctive (e.g. John Jones "or" Sam Smith) each individual is shown as an owner or lessee and each individual must be licensed.

(e) A kennel owner's license is required of every person who owns or operates a kennel which races greyhounds in a licensed race meet in Oregon, and any person other than a licensed greyhound owner who has a right to receive part of a kennel owner's share of a purse of a greyhound racing in Oregon. However, a licensed employee of a kennel may receive, as

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part of the employee's compensation, a percentage of the kennel's earnings without having a kennel owner's license and without being shown on the NGA papers. The kennel owner licensee must disclose the employee's percentage to the commission in writing prior to any payment to the employee. A kennel owner's license also constitutes a license for the premises where the kennel's greyhounds are housed.

(f) A stable/kennel/assumed name owners license is required if the name appears as an owner on the foal certificate, NGA ownership or registration papers of any animal racing in Oregon.

(g) A trainer's license is required of persons employed by a racing animal owner or stable/kennel to condition and care for racing animals racing in Oregon. A kennel may have only one trainer.

(h) An assistant trainer's license is required of persons who assist trainers. Trainers and assistant trainers must be at least 18 years of age.

(i) Applicants for a greyhound trainer's license or assistant trainer's license, who have not been previously licensed as trainer or assistant trainer in the United States, must pass an examination given by the board of judges to demonstrate they have the knowledge and ability to handle the duties of their position. If such applicant has been licensed as trainer or assistant trainer in the United States previously but not in the last 36 months, the board of judges may require an examination demonstrating the applicant's knowledge and ability to handle the duties of the position. If any applicant fails the examination, the applicant must wait 30 days before reapplying. However, the board of judges may waive the 30 days waiting period for applicants who, in the opinion of the judges, narrowly failed the examination.

(j) Applicants for a horse trainer's license or assistant horse trainer's license may be required to pass a written examination given by the board of stewards and a commission veterinarian to demonstrate they have the knowledge and ability to handle the duties of their position. Any person who has not been licensed as trainer or assistant trainer in Oregon may be required to submit to a practical exam given by a commission representative and/or a representative of the recognized horsemen's association for the breed with which the applicant wishes to work. The stewards shall consider any recommendation received from the commission representative or the horsemen's association representative. Applicants for a trainer's license must have held a license in a backside license category for a period of at least two years and must have the recommendation of at least 3 trainers currently licensed by the commission prior to being granted a trainer's license. Applicants for an assistant trainer's license must have been licensed in a backside license category for a period of at least one year prior to being granted an assistant trainer's license.

(k) A jockey license or apprentice jockey license is required of any person who rides a horse in a race. However, when there is doubt as to a jockey's experience or ability, the stewards may require an applicant for a jockey license or apprentice jockey license to demonstrate the ability to control a horse and to ride in two or more races before a license is issued. Also, the starter may require applicants to satisfactorily demonstrate their ability to control horses out of the gate. Notwithstanding OAR 462-120-0060 the temporary license may be for a period longer than 10 days in order for the stewards to evaluate the applicant's skill. A jockey or apprentice jockey must be at least 16 years of age. All jockeys must pass physical examinations once a year. A physical examination must include but is not limited to a vision test and urine and/or blood tests. The stewards may require that any jockey be reexamined and may refuse to allow any jockey to ride until he/she successfully completes such examination. A physical card or physician's release will be seen as initial proof of such examination; however, the stewards may require additional information on the examination.

(l) An outrider license is required of any employee of the race meet licensee who is stationed on horseback around the track and must be at least 18 years of age.

(m) An exercise rider license is required of any persons, other than licensed jockeys or apprentice jockeys, who exercise or work out horses. An exercise rider must be at least 15 years of age. The stewards may require evidence of competency.

(n) A pony rider license is required of any person who, while on horseback, leads horses to and from the stable area and paddock, or from the paddock to the starting gate. A pony rider must be at least 15 years of age. The stewards may require evidence of competency.

(o) A horseshoer license is required of any person who performs the usual services of a horseshoer on a racecourse. Farriers who have not been previously licensed by the commission must submit an application accompanied by the written recommendation of three trainers who are licensed by the commission, recommendation of the track plater or have a certificate of completion from an approved Farrier school. The recommendations must include a statement that the trainer knows the farrier to be qualified to be licensed as a farrier. All farriers not previously licensed by any racing jurisdiction may be subject to examination as directed by the stewards, prior to licensing.

(p) A groom's license is required of any person not licensed as an assistant trainer who works for a trainer. A groom, upon discontinued employment by a trainer, must surrender their license to security or commission licensing personnel within 10 days, to be returned when employed during the license period. A groom's license is not a freelance license.

(q) At a minimum the president and the vice president of adoption organizations.

(r) A public training track owner's license is required of every person who owns or manages a public training track.

(s) A veterinarian license is required of any veterinarian licensed by the Oregon Veterinary Medical Examining Board who performs veterinary services on a racecourse. A current copy of that license must be on file with the commission licensing office.

(t) A valet license is required of every person who assists or attends jockeys in the jockey room or saddling paddock.

(u) A morning line odds maker's license is required of any person employed or used by the race meet licensee to establish the final morning line odds in the daily racing program.

(v) Each owner, officer, director, all employees of the race meet licensee employed at a racecourse and its contractees must be licensed by the Oregon Racing Commission except:

(A) Contractees who perform most of their principal functions away from the racecourse such as certified accountants, attorneys, insurance brokers, advertising agents and other similar contractors.

(B) Other contractors or individuals designated by the commission.

(w) A vendor's license is required of any person, other than a veterinarian licensed by the Oregon Racing Commission, who solicits the sale of goods or services (used to feed, care for, or equip racing animals) to racing animal owners, stable/kennel owners or trainers on a racecourse.

(x) An authorized agent's license is required of authorized agents.

(A) A licensed owner may register an authorized agent by filing an application to register an authorized agent with the commission and by paying the fee set by the commission. No person shall be registered as an authorized agent who is ineligible for a license. An authorized agent may act for the registering owner as set forth in the application form. No authorized agent may sign on behalf of any owner the certificate of registration for any racing animal in the absence of a valid power of attorney authorizing such signature. A person may be an authorized agent for only one kennel.

(B) No authorized agent may perform any duties until such person is licensed and has filed with the commission a current written instrument signed by the principal before a notary public or before an employee of the commission. The instrument must clearly set forth the powers given to the authorized agent. Any power to collect money from the race meet licensee must be expressly stated in the written instrument. Upon licensing, each authorized agent must file a copy of the written instrument with the paymaster of purses.

(C) Any changes in the powers delegated by the principal to the authorized agent must be made in writing, witnessed, and filed with the commission and the paymaster of purses.

(D) Unless due to expiration of the license or term agreement set forth in the written instrument, any revocation by the principal of the authorized agent's authority must be made in writing, witnessed, and filed with the commission and the paymaster of purses.

(y) A public kennel owner's license is required of any person who rents or leases kennel space to more than one other person who is licensed to race greyhounds in Oregon. A public kennel owner's license also constitutes a license for the premises where the racing greyhounds are housed.

(z) A jockey agent's license is required of any person who makes engagements for or manages a jockey.

(aa) All racing officials and their assistants shall be licensed under the name of their official position.

(bb) An Oregon greyhound farm.

(cc) Compliance Officer(s).

(3) Working members of the media who are not employed by a race meet licensee do not need to be licensed in order to enter restricted areas. However, they must display a current valid "press" badge at all times when in a restricted area. Prior approval must be obtained from the stewards/judges or office of the race meet licensee during non-race time, and they must be escorted by a race meet licensee representative while in the restricted area.

Stat. Auth.: ORS 462.250

Stats. Implemented: ORS 462.020

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2004, f. & cert. ef. 4-8-04; RC 2-2008, F. & cert. ef. 9-30-08

462-120-0050

License Application Procedures; Requirements for Corporations and Partnerships; Stable/Kennel/Assumed Name

(1) License applications shall be made on forms furnished by the commission. An application is not complete until the application form has

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been filled out completely and signed by the applicant, the proper fee has been paid, and the applicant has submitted all documentation and information reasonably requested by the board of stewards/judges or the commission. An oral interview may be required in a particular case. All licensees are required to maintain current information regarding themselves on file with the Oregon Racing Commission, including but not limited to their current address, telephone number and any information regarding rulings, arrests or convictions. The commission will send all forms of written communications, including notices, to the address the licensee has on file with the commission.

(2) The application must show the true name of the applicant, and must also disclose any other name used by the applicant during the past 10 years. An application for an owner's license must identify the true names of all other persons who have any ownership interest, leasehold interest, or other investment in any of the applicant's racing animal(s) which will be racing in Oregon. Greyhound owners must identify the name of the kennel out of which the applicant's greyhounds will be racing in Oregon. All applicants should be aware that Oregon law prohibits any person from conducting business in Oregon under an assumed name or under any name other than the real and true name of each person conducting the business or having an interest therein, unless the assumed name is registered with the Office of the Secretary of State. Refer to ORS 648.010(1).

(3) The fee for the first category of licensure is \$10.00 per year. Any person who is required to be licensed under more than one category of license must indicate the desired categories on the application form and pay an additional fee of \$2 per year for each additional category. All licenses shall be for a three year period and shall expire three years from the date of issuance. The license fee shall be the annual fee for each category in which the person is licensed, multiplied by three years. A kennel owner who owns greyhounds and also leases greyhounds from other owners must be licensed as a greyhound owner and as a kennel owner.

(4) Dual licenses may be denied if, in the opinion of the stewards/judges or commission, there is a conflict of interest in holding more than one license.

(a) When an applicant applies for a license in more than one occupation, the stewards/judges or the commission shall consider whether the holding of such multiple licensing creates a conflict of interest (such as, but not limited to, a sudden change in ownership to immediate family members or a change in ownership without adequate consideration). If such appearance is created, the multiple license may be denied.

(b) The following dual licenses shall be prohibited:

(A) A person licensed as a jockey shall not be licensed in any other capacity unless approved by the board of stewards.

(B) A person licensed as an owner shall not be licensed as a jockey agent or racing official.

(C) A person licensed as a race track owner or operator or as a racing official shall not be licensed in another capacity during the race meeting which the person owns or operates or at which that person is serving as a racing official unless approved by the board of stewards or as provided in OAR 462-140-0050(6).

(D) Any veterinarian licensed by the Oregon Racing Commission to practice veterinary medicine on a racecourse shall be prohibited from concurrently holding any other license at any location under the jurisdiction of the commission unless otherwise approved by the board of stewards.

(c) A holder of a groom's license may be a hot walker. A trainer or an assistant trainer may also perform the duties of a groom or hot walker. An owner may also groom or hot walk only the horse(s) he/she owns. However, except for those license categories specifically mentioned herein, no licensee shall act in any capacity other than that for which he/she is licensed. Thus, for example:

(A) A pony person may not exercise horses if not licensed as an exercise rider.

(B) A groom may not perform the duties of a trainer if not licensed as a trainer.

(C) A trainer may not pony or exercise a horse if not licensed as a pony person or an exercise person.

(D) An outrider may not perform duties of a pony person except as needed in the performance of their duties as an outrider.

(5) Application fees are not refundable after the commission begins to process the application, even if the license is denied (except race meet licensees, as provided by statute), or a portion of the license is unused.

(6) All corporations, limited partnerships, partnerships and other entities (except natural persons) which apply for licenses shall attach to the application as applicable:

(a) A document, signed by the president and secretary of the corporation, listing the true name and address of all officers, directors, shareholders, general partners, limited partners, and other persons having a legal or beneficial interest in the horse, stable or other business sought to be licensed, and identifying the nature and amount of each person's interest; and

(b) For corporations, a copy of the certificate of incorporation, an affidavit signed by the president indicating whether any officer, director, or stockholder has been ruled off, denied a license, or is under suspension by any official body of any racing jurisdiction, and a written agreement to notify the commission within 30 days after there has been a change in any officer, director, or stockholder; or

(c) For partnerships, a copy of the written partnership agreement, an affidavit signed by a general partner indicating whether any partner has been ruled off, denied a license, or is under suspension by any official body of any racing jurisdiction, and a written agreement to notify the commission within 30 days after there has been a change in any partner. Persons who do not have a written partnership agreement may not be licensed under the partnership name; instead, each person must be individually licensed under his/her own name; and

(d) For claiming purposes, all corporations must have an authorized agent, who may be a corporate officer, and all partnerships and licensed stables must either designate an authorized agent to sign claim forms (who may be one of the partners) or else all partners must sign the claim form.

(7) All licensees, in accepting a license, or any person introducing an animal onto the confines of any racecourse, training track or facility upon or within which racing animals are housed, are considered to have granted permission to Oregon Racing Commission veterinarians, investigators, and members of the board of judges/stewards, to enter upon those premises for the purpose of inspection to determine if those premises are suitable for the housing of animals, and to determine the health, safety and physical conditions of any animals contained therein.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.020

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, F. & cert. ef. 9-30-08

462-120-0055

State and Nationwide Criminal Records Checks; Fitness Determinations

(1) The purpose of these rules is to provide for the reasonable screening of applicants and licensees in order to determine if they have a history of criminal behavior such that they are not fit to be granted or renewed a license that is issued by the commission.

(2) Fingerprints may be required of applicants on a case-by-case basis in order to complete a national criminal background investigation. In the case of a corporation or partnership, fingerprints may be required from the authorized agent and any other individual shareholder or owner the commission or its designated representative may deem appropriate.

(a) These fingerprints will be provided on prescribed forms made available to the commission. Fingerprints may be obtained by designated commission staff, a law enforcement office, or at a private service acceptable by the commission. The commission will submit fingerprints to the Oregon Department of State Police to conduct a national criminal records check. Any original fingerprint cards will subsequently be destroyed by the Oregon Department of State Police. All background checks shall be requested to include available state and national data, unless obtaining one or the other is an acceptable alternative. The costs of the criminal record check, including a nationwide fingerprint-based criminal records check, shall be the responsibility of the commission.

(b) The board of stewards on behalf of the commission shall determine whether an applicant or licensee is fit to be granted a license based on criminal records background check, racing license history, financial records, any false statements made by the applicant or licensee regarding his/her background, any refusal to submit or consent to a criminal records check including fingerprint identification, and any other pertinent information obtained as part of an investigation. If a licensee is determined to be unfit, the applicant may not be granted a license. The applicant may be granted the ability to conduct business in his occupational category on a temporary basis until such time as the background investigation is complete.

(c) In order to conduct the Oregon and national criminal records check and fitness determination, the commission may require additional information from the licensee or applicant as necessary, such as but not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial or other background information.

(d) The commission may consider any conviction of any violation of the law for which the court could impose a punishment. When making a fitness determination based on criminal record, the commission shall consider:

(A) The nature of the crime;

(B) The facts that support the conviction or pending indictment or that indicate the making of the false statement;

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(C) The relevancy, if any, of the crime or the false statement to the specific requirements of the applicant's or licensee's present or proposed license; and

(D) Intervening circumstances relevant to the responsibilities and circumstances of the license, intervening circumstances include but are not limited to:

- (i) The passage of time since the commission of the crime;
- (ii) The age of the applicant or licensee at the time of the crime;
- (iii) The likelihood of a repetition of offenses or of the commission of another crime;

(iv) The subsequent commission of another relevant crime;

(v) Whether the conviction was set aside and the legal effect of setting aside the conviction.

(E) If the applicant discontinues the application process or fails to cooperate with the criminal records check process, the application is considered incomplete.

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.020
Hist.: RC 2-2008, F. & cert. ef. 9-30-08

462-120-0060

Temporary Licenses

Upon receipt of a completed application, the commission may issue a temporary license. The temporary license must be in the licensee's possession at all times while on a racecourse. A temporary license is valid for 10 days, or until replaced by a regular license, or another temporary license is issued for an additional 10 days, or until the applicant is served with a ruling stating grounds for refusal to issue a regular license, whichever occurs first. (Note: See OAR 462-120-0040(2)(k))

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.020
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-120-0070

Stable Names

(1) The commission will not license a stable name if the ARCI registry shows that someone else has already registered that stable name or a name which is so similar that it could mislead the public, if the stable name is the real name of any horse owner, or the stable name is determined by the stewards to be detrimental to the best interests of racing.

(2) No owner may race under a stable name unless the stable is licensed by the commission. A person may own or have an interest in horses which race out of different stables so long as all ownership interests are disclosed in writing to the commission and the race office. A person may not use his or her real name if the person has a licensed stable name and wholly owns the horses in the stable.

(3) When applying for a stable name license, the applicant must disclose the identities of all persons having an interest in the stable.

(4) In order to change the name of a stable, without changing the ownership interest of the stable, a person must apply for a new stable name license.

(5) If a partnership with a written agreement is involved in the ownership of a stable, the partnership agreement must be in compliance with the rules covering partnerships.

(6) If a corporation is involved in the ownership of a stable, the corporation must be in compliance with the rules covering corporations.

(7) The stable name shall be carried on the official program.

(8) No individual participating as a trainer or assistant trainer at a race meet may have any interest in a stable or stable name at the same race meet except that for which he or she is the trainer or assistant trainer except with permission of the stewards (such as difference in breeds).

(9) The commission may refuse to license any stable whose name is misleading to the public or unbecoming to the sport.

Stat. Auth.: ORS 462.250
Stats. Implemented: ORS 462.020
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-120-0090

Assumed Names

(1) The commission will not license an assumed name if the ARCI registry shows that someone else has already registered that name or a name which is so similar that it could mislead the public, if the name is the real name of any racing animal owner, or the name is determined by the stewards/judges to be detrimental to the best interests of racing.

(2) No owner may race under an assumed name unless the name is licensed by the commission. A person may own or have an interest in racing animals which race out of different stables/kennels so long as all ownership interests are disclosed in writing to the commission and the race office. A person may not use his or her real name if the person has a licensed stable/assumed name and wholly owns the horses in the stable.

(3) When applying for an assumed name license, the applicant must disclose the identities of all persons having an interest in the assumed name.

(4) In order to change the assumed name, without changing the ownership interest of the name, a person must apply for a new assumed name license.

(5) If a partnership with a written agreement is involved in the ownership of an assumed name the rules covering partnerships must be complied with.

(6) If a corporation is involved in the ownership of an assumed name, the rules covering corporations must be complied with.

(7) The assumed name shall be carried on the official program.

(8) No individual participating as a trainer or assistant trainer at a horse race meet may have any interest in a stable or assumed name at the same race meet except that for which he or she is the trainer or assistant trainer except with permission of the stewards (such as difference in breeds).

Stat. Auth.: ORS 462.250
Stats. Implemented: ORS 462.020
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-120-0100

Renewals; Reapplications; Duplicates; Change of Ownership

(1) Applications. The application fee is \$30.00 for the first license category and \$6.00 for each additional category.

(2) Reapplication. Any person who has had a license application denied by the commission or stewards/judges must wait at least six months before reapplying for that category of license unless the denial was for the failure of a written exam. In the case of a failed written exam, the stewards/judges may consider a shorter duration, but in no case shall the applicant be eligible to re-apply within 30 days from the date the application was denied.

(3) Duplicates. If a license is lost or destroyed, the licensee must apply for a duplicate license by submitting to the commission a sworn statement explaining in detail the circumstances of the loss or destruction, and by payment of an amount equal to \$5.00 per year for the remaining number of years left in the original license's term.

(4) Change of Ownership:

(a) After a greyhound has started in an official race in a race meet in Oregon, no change of ownership or leases between kennels will be permitted until the race meet is concluded, except in extraordinary circumstances with prior approval of the commission; however, a change of true ownership may, with the approval of the board of judges, occur during the race meet. Under extraordinary circumstances a dog owner may move a greyhound lease relationship from its current kennel to another booked kennel with approval from the board of judges.

(b) After a horse has been registered with the racing secretary, it may not be transferred (unless claimed during the race meet) without permission of the stewards. The board of stewards may require a notarized bill of sale from the registered owner prior to giving permission for the change of ownership unless a commission official witnesses the signing of the bill of sale. The share of a part owner of any horse may not be sold or assigned without the consent of the other owners. The commission and/or stewards may declare ineligible to race any horse for which the ownership or control is in question. No ownership change shall be made after the close of entries except at the discretion of the board of stewards.

(5) Change of Trainer:

(a) Before a kennel owner may change trainers, the kennel owner or authorized representative must submit a completed "Change of Trainer" request on forms furnished by the commission, and must obtain the approval of the board of judges. When a new trainer is needed immediately, the procedure set forth in OAR 462-140-0430(4) may be followed first. Afterwards, a "Change of Trainer" request form must be promptly submitted.

(b) A horse owner who wishes to change a trainer must notify the racing secretary, obtain a "Change of Trainer" form, fill out the form completely and have it signed by the stewards. Upon receipt of the completed and signed form by the racing secretary, the former trainer shall not be given any further access to the horse's papers. No trainer change shall be made after the horse is entered into a race.

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.020
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, F. & cert. ef. 9-30-08

462-120-0110

Where and When License Valid; Restricted Areas; Use and Display of License

(1) Where License Valid. A license issued to a participant in a race meet for greyhounds is only valid at greyhound racecourses unless validated at a horse track. A license issued to a participant in a race meet for horses is only valid at horse racecourses unless validated at a greyhound track.

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(2) When License May Be Used. Licensees shall use their license to enter a restricted area only when necessary to perform duties as a participant in a race meet. Any licensee who is employed by or is an authorized agent for a racing animal owner, stable/kennel owner, trainer or race meet licensee, shall promptly surrender their license to the commission upon termination of their employment or agent relationship. The commission shall keep the license until the license expires or until the licensee is again employed as a participant in a race meet.

(3) Restricted Area, Unauthorized Area. No one may enter a restricted area without a displayed current license issued by the commission, except commission members or employees, media representatives, and guests displaying a guest pass duly issued by the commission. No person (including licensee) may enter an unauthorized area without a proper credential or license or permission of the stewards/judges. Guests must be accompanied by security personnel, a commission employee or representative, or a representative of the race meet licensee. For stable/kennel area only: The race meet licensee may develop a guest pass system, approved by the executive director, to allow licensed participants to register guests to the area. The licensed participant is responsible for the actions of the guest and must accompany the guest around the area.

(4) Possession and Display of License. Licensees who enter a racecourse must carry their license with them at all times and must show the license to any racing official upon request. Licensees who enter any restricted area shall at all times have displayed on their person, with photo visible, their commission license. All guests in a restricted area shall display their guest pass at all times. Guests are not permitted to perform work functions.

(5) Protection of License. Licensees must take all reasonable precautions to safeguard their license, to prevent the license from being lost, misplaced or stolen. No licensee shall allow any other person to use the licensee's license for any purpose whatsoever. Licenses are not transferable.

(6) Possession of a license does not guarantee the right of the license holder to employment at or participation in a race meet or to be within the enclosure. A licensee must have a business purpose to be within any restricted area on a racecourse.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.020

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-120-0120

Additional Grounds for Refusing a License

In addition to the specific licensing criteria listed in ORS 462.075:

(1) An application by a corporation may be denied if any officer, director, or stockholder could be denied a license.

(2) An application by a partnership may be denied if any general or limited partner could be denied a license.

(3) The commission may refuse to license or may suspend the license of anyone who accumulates unpaid obligations, or defaults in obligations, or otherwise displays financial irresponsibility in connection with the feeding, care, maintenance, training, equipment, and racing of racing animals. Financial irresponsibility as used in this rule means the debtor obligation has been reduced to judgment and remains unsatisfied, or the licensee does not dispute the obligations and the obligations remain unpaid.

(4) An applicant may be refused a license for any conduct which could constitute grounds for suspension or revocation. A license may be suspended and/or revoked if it is determined that the applicant could have been refused a license if the true facts were known at the time the license was issued.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.020

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-130-0010

Prohibited Conduct; Investigations; Discipline

(1) No person (including licensees) shall:

(a) Incite, encourage, instruct, assist, or cause or attempt to cause another person to engage in any violation of ORS chapter 462 or any rule of the commission, or to commit any prohibited act in relation to racing in another racing jurisdiction.

(b) Offer or accept any form of compensation for cashing a pari-mutuel ticket for another.

(c) Direct any personally offensive language, profanity, obscenity, or abusive epithets toward any racing official or employee of the commission at any place under the jurisdiction of the racing commission.

(d) Take any action upon a racecourse that creates or causes a clear and present danger of violence.

(e) Initiate any physical altercation with another person on a racecourse.

(f) Threaten another person with physical harm or probable physical harm.

(g) Refuse to obey reasonable orders or directions of a racing official, security personnel of the race meet licensee or Oregon Racing Commission employees.

(h) Sell or offer to sell tip sheets or any other written, electronic or oral predictions as to the outcome of races at any place under the jurisdiction of the commission unless licensed to do so by the commission.

(i) Gamble, bet, or wager on a racecourse except as authorized by the State of Oregon.

(j) Possess on a racecourse during a race meet any device, machine, or paraphernalia normally used for gambling or gaming, except with written permission of the commission.

(k) Except for the race meet licensee, solicit any wagers from the public.

(l) Give or offer to give any bribe directly or indirectly, to any licensee, racing official, commission member or employee, or any other person having official duties in relation to any race, racecourse, or racing animal.

(m) Tamper or attempt to tamper with an animal, or apply or aid in applying to an animal or possess on a racecourse any electrical or mechanical device or prohibited medication intended to affect the performance of an animal.

(n) Use any lure except an artificial lure for training or racing a greyhound at any time.

(o) Possess a hypodermic needle or usable injectable syringe on which a needle may be attached on a racecourse, except veterinarians or veterinarian assistants licensed by the Oregon Racing Commission. On a racecourse, veterinarians may use only one-time disposable needles, and shall dispose of them off the racecourse. If a person has a medical condition which makes it necessary to have a syringe on the racecourse, that person must request permission of the stewards/judges in writing, furnish a letter from a licensed physician explaining why it is necessary for the person to have a syringe on the racecourse, and must comply with any conditions and restrictions set by the stewards/judges.

(p) Administer, offer to administer, or allow to be administered to any racing animal any prohibited drug or medication, or an unauthorized quantity of an approved drug or medication.

(q) Alter or forge a prescription for medication for a racing animal, or any legal document including but not limited to: a bill of sale, a claim blank, a license application, a treatment form, a registration certificate, ownership registration certificate, lease certificate, a check, or a license application.

(r) Impersonate any racing official, commission member or employee, or any other person having official duties in relation to any race, racecourse, or animal in any manner including forging any of these individuals' names or initials on any document.

(s) Submit or knowingly allow to be submitted to the commission, commission personnel, racing secretary or any racing animal registry, any report or document or application which contains false or misleading information.

(t) Mar or alter any identification mark on a racing animal.

(u) With the exception of commission staff and racing officials in the conduct of official business, use cell phones in the paddock, jockeys' room, test barn enclosure/area and on the racing surface when the area is actively in use.

(v) Have any interest in more than one kennel racing greyhounds in Oregon.

(w) Smoke inside the test barn/storage area, under the covered portion of the stables, including stalls, tack rooms, shedrow, or in designated "No Smoking" areas.

(x) Use any tobacco products or have food or beverages in the designated testing areas.

(y) Possess on a racecourse any deadly weapon or firearm, a BB gun, blow gun, pellet gun or similar device, except law enforcement officers, commission officials and security personnel.

(z) While employed by the race meet licensee, racing commission or acting as a racing official, wager at the racecourse where employed or working, while on duty, or ask any other person to place a bet on their behalf. This includes individuals working under contract with the race meet licensee during the racing program and the employees of contractors of the race meet licensee who are working during the racing program. This does not include individuals with kennel contracts.

(aa) Allow any person under the age of eighteen (18) years to place or collect a wager. Race meet licensee shall turn over to the proper civil authorities any person who violates this rule, to be punished upon conviction of any such violation, according to law. This rule shall be posted conspicuously at entrance gates and throughout wagering areas. The license of any employee participating in any transaction relative to wagering with persons under the age of eighteen (18) years may be summarily, suspended or revoked.

(bb) Move, nominate or enter to race a racing animal on a racecourse except with express permission of the trainer, racing secretary, owner, stall superintendent or the stewards/judges.

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(cc) Submit any animal in their charge to cruel or inhumane treatment. Cruel or inhumane treatment includes, but is not limited to:

(A) Inadequate food, shelter and water as defined by typical industry standards for those animals kept in similar climates and conditions;

(B) Neglect in any manner, including adequate veterinary care and attention when necessary;

(C) Conditions which cause the animal unnecessary physical pain or suffering;

(D) Prohibited conduct described in ORS 167.310 to 167.388 in the form the statute provided on the effective date of this rule.

(dd) Commit theft or buy, sell or possess any stolen property, or buy, sell or possess any illegal contraband.

(ee) Illegally influence or conspire, or attempt to influence or conspire, to affect the result of any race or manipulate the odds in which an animal participates.

(ff) Violate any written agreement entered into with the Oregon Racing Commission, the board of stewards, or the board of judges or any other commission employee as a result of an order of the commission, stewards or judges.

(2) No licensee shall:

(a) Enter for official racing, official schooling, start, cause or allow to be entered or start, a racing animal that the licensee knows or should know does not meet all entry requirements.

(b) Come onto a racecourse or participate in a race meet while suspended, excluded or ruled off by the official body of any racing jurisdiction unless otherwise ordered by the board of stewards/judges or the Oregon Racing Commission.

(c) Fail to immediately notify the racing secretary when the licensee discovers that any entry or starting requirement for a racing animal under the licensee's control is not met or is no longer being met.

(d) Allow or cause a scratch to become necessary, which could have been avoided by the exercise of reasonable care.

(e) Fail to request a scratch immediately upon learning that a scratch is necessary.

(f) Solicit, offer or accept any bribe in any form, directly or indirectly, to or from any person, in connection with any race meet in any racing jurisdiction which is a member of ARCI. A conviction is not required in order to prove a violation of this rule.

(g) Commit any corrupt, fraudulent, or unlawful act on any racecourse or in connection with any race meet in any racing jurisdiction which is a member of ARCI.

(h) Fail to cooperate with commission personnel, officials or security personnel when requested to comply with these statutes and rules relating to racing.

(i) Fail to report to the judges/stewards' office promptly upon request.

(j) Be intoxicated or under the influence of controlled substances in a restricted area or on duty.

(k) Lodge a frivolous complaint.

(l) Knowingly allow an unlicensed person to participate in a race meet if the licensee knows or should know that the person is required to be licensed.

(m) Fail to immediately report to the commission the unlicensed participation in a race meet of any person who the licensee knows or should know is required to be licensed.

(n) Fail to report promptly to a commission representative any possession or use of a prohibited drug, prohibited medication or prohibited paraphernalia.

(o) Fail to notify the commission in writing of a change of officer, director, stockholder (except for publicly traded corporations), or partner, within 30 days, if the change occurred during a race meet, or prior to the next race meet, if the change occurred after a race meet.

(p) Fail to pay a fine or civil penalty within 10 days of the effective date of an order. Failure to pay a fine within the time limit described by this rule may result in a suspension of up to 30 days after the fine is paid in full.

(q) Ride a horse on the racecourse without properly wearing an approved helmet and vest.

(r) Retain any prize or purse money which the person has reason to know was paid in error or lost because of disqualification or commission action as a result of an appeal.

(s) If an owner, assistant trainer, groom or other person having charge, custody or care of a racing animal, fail to protect the racing animal and guard it against the administration of unauthorized drugs or any other illegal conduct.

(t) Direct, by use of language, gesture or sign, any profanity, obscenity or abusive epithets toward the public at a racecourse.

(u) Allow anyone other than participating jockey, authorized racing officials, representatives of the commission, licensed valets and authorized licensed vendors in the jockey room between two hours before post time for the first race of the day and one hour after the last race without consent of the stewards for each time of entry.

(v) Other than a licensed jockey agent, make engagements for a jockey. A jockey may make his/her own engagements if not represented by a jockey agent.

(w) Engage in any dishonest conduct on a racecourse.

(x) Engage in any unprofessional conduct on a racecourse.

(y) Willfully and deliberately fail or refuse to pay any monies when due for any service, supplies or fees connected with their operations as a licensee; nor shall a licensee falsely deny any such amount due or the validity of the complaint thereof with the purpose of hindering or delaying the payment of the debt or defrauding the person to whom the indebtedness is due.

(z) Write, issue, make or present any check in payment for any license fee, fine, nomination or entry fee or other fees, or for any service or supplies when such licensee knows or should reasonably know that the said check will be refused for payment by the bank upon which it is written, or that the account upon which the check is written does not contain sufficient funds for payment of the said check, or that the check is a stop payment check or is written on a closed account or a nonexistent account. The fact that such a check is returned to the payee by the bank as refused, constitutes a rebuttable presumption for a finding of financial irresponsibility.

(3)(a) Alcohol Consumption: No licensee may have present within his/her system an amount of alcohol which would constitute being intoxicated, defined as .08% blood alcohol content or greater, while in a restricted area. No jockey, apprentice jockey, valet, assistant starter, pony person, exercise person, or racing official may have present within his/her system an amount of alcohol which would constitute being impaired, defined as .02% or greater blood alcohol content, while responsible for performing their official duties.

(A) Any licensee may be required to take a breath alcohol test prior to their participation in racing events.

(B) Acting with reasonable suspicion, the stewards/judges or a designated Racing Commission representative may direct any licensee to submit to a breathalyzer test to determine blood alcohol content.

(C) Violation of subsection (a) will result in an immediate suspension until such time a formal hearing before the board of stewards may be held.

(D) Sanctions for alcohol violations

(i) Penalties for a first offense may result in a fine and/or a suspension up to 15 days. The licensee may be required to present an evaluation by a certified rehabilitation program approved in advance by the commission. If the evaluation determines treatment is needed, the licensee shall provide documented proof of completion or current enrollment in an appropriate certified rehabilitation program prior to reinstatement.

(ii) Penalties for a second offense may result in a fine and suspension up to 30 days. The licensee shall be required to present an evaluation by a certified rehabilitation program approved in advance by the commission. If the evaluation determines treatment is needed, the licensee shall provide documented proof of completion or current enrollment in an appropriate certified rehabilitation program prior to reinstatement.

(iii) Penalties for third and subsequent offenses shall result in a fine and suspension for no less than 90 days. The licensee shall be required to present an evaluation by a certified rehabilitation program approved in advance by the commission. If the evaluation determines treatment is needed, the licensee shall provide documented proof of completion or current enrollment in an appropriate certified rehabilitation program prior to reinstatement.

(iv) A history of substance abuse violations other than alcohol may be considered as aggravating circumstances when considering penalties for alcohol abuse, and may result in penalties greater than those listed in these rules.

(b) Drugs/Controlled Substances: No licensee within any place under the jurisdiction of the racing commission shall have in the licensee's body any controlled substance or drug listed in Schedules I through V of 21 USC Section 812 except for a drug which was obtained or taken pursuant to a valid legal written prescription or order from a licensed physician acting in the course of the physician's professional conduct and which is produced by the licensee upon request.

(A) Acting with reasonable suspicion, the stewards/judges or a designated racing commission representative may direct any licensee observed in a restricted area or any racing official acting in their capacity to submit to drug testing for analysis. When so directed, said licensee shall submit to such examination. If the result of the test indicates the presence of a controlled substance as delineated above, or if the person refuses to be tested, either for reasonable suspicion or under random testing criteria, or if the specimen was adulterated as reported by the official testing laboratory, the person may be fined and/or suspended as described in this rule. If the laboratory determines that the sample is dilute, the licensee being tested shall be required to submit another urine sample. To ensure the sample will not be dilute, the licensee will be required to report for testing at a specified time and remain until the sample is acquired.

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(B) Controlled Substance Testing Expense: Except for split samples, laboratory analysis will be performed at the racing commission's expense, unless pursuant to a prior order of the stewards/judges or commission reinstating the licensee, or the person produced an adulterated specimen, in which case retesting may be performed only after the person pays the cost of the first test to the commission.

(C) Sanctions for Controlled Substance Violations:

(i) A licensee's first violation shall result in a suspension for not less than 30 days, however, reinstatement shall not occur until the licensee has been evaluated by, and a current written report is received from a drug counselor certified by the State of Oregon and who is approved in advance by the commission or stewards/judges. If the report states that treatment is required, reinstatement shall not occur until the licensee presents documented proof of current enrollment in or completion of an appropriate certified rehabilitation program approved in advance by the commission. Reinstatement is also subject to licensee producing at licensee's expense, a negative test from a laboratory approved in advance by the commission, and the licensee agreeing in writing to submit urine specimens at the request of the stewards/judges or designated racing commission representative for not less than five years, or until no longer licensed. Any failure to comply with the certified counselor's and/or stewards' instructions may result in immediate suspension.

(ii) A licensee's second violation within five years of the first violation shall result in an indefinite suspension, but in no case less than six months, and reinstatement shall not occur until the licensee completes all of the contingencies listed above in subsection (i).

(iii) A licensee's third violation within seven years of the second violation shall result in a 365-day suspension by the stewards/judges and immediate referral to the commission for consideration of exclusion and/or revocation of the license. The stewards/judges may not reinstate the licensee unless the laboratory analysis was proven to be incorrect or a fraud was perpetrated resulting in a mistaken judgment by the stewards/judges.

(iv) A history of alcohol abuse violations may be considered as aggravating circumstances when considering penalties for drug abuse violations and may result in penalties greater than those listed in these rules.

(D) Prescription Medication:

(i) Any licensee who has obtained a medical prescription for any drug listed in Schedules I through V of 21 USC Section 812 may be required to furnish the Commission or the stewards/judges written documentation from the issuing physician that the use of the prescribed drug will not impede the licensee from performing the duties for which they are licensed or threaten the safety or welfare of others or a racing animal.

(ii) If, in the opinion of the board of stewards/judges, the use of any lawfully prescribed drug listed in Schedules I through V of 21 USC Section 812 would or could pose a threat to the health, safety or welfare of the licensee, others or a racing animal, the board of stewards/judges, after having an appropriate hearing, can bar the licensee from entering a restricted area of any racecourse or their handling of any race animal subject to appeal.

(E) Knowledge of a person's voluntary and active participation in an approved rehabilitation program will not constitute grounds for "reasonable suspicion" under this rule.

(4) Any licensee who violates any provision of ORS chapter 462 or any rule adopted there under is subject to further discipline by the board of stewards/judges, up to the limits imposed by law, and also is subject to further discipline by the racing commission, including suspension, revocation, civil penalties, exclusion, probation, and such other discipline as may be appropriate in the case. Whenever a licensee is suspended, the stewards/judges have the commission's authority to also exclude him or her. Any non-licensee who, in the opinion of the stewards/judges, acts in a manner detrimental to racing may be subject to exclusion.

(5) When grounds exist for suspension of a licensee, the stewards/judges or commission may also impose other appropriate sanctions including, but not limited to, forfeiture of purse, return of prizes, ruling off, or forbidding entry of racing animals.

(6) When a licensee is suspended, it may be suspended for all categories licensed, including reciprocity suspensions.

(7) Ejection. The race meet licensee may eject any person from the race course for any reasons and in any manner that is not contrary to law. The race meet licensee shall notify the commission within 24 hours of any ejection or arrest occurring on the racecourse, including the details thereof.

(8) All licensees shall report any known irregularities or wrong doings by any person immediately to a commission employee and cooperate in subsequent investigations.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, F. & cert. ef. 9-30-08

462-130-0020

Reciprocity Suspension

The board of stewards/judges or the commission may suspend, prior to any hearing, the license of any person whose license is currently suspended or revoked by an official body of another state or country for violation of the racing laws or regulations of that jurisdiction. However, at the time the board of stewards/judges or commission issues a suspension order, the licensee shall be promptly notified of the right to contest the suspension and request a hearing under ORS 183 (the Oregon Administrative Procedures Act) before an administrative law judge and subsequent commission consideration of the proposed order regarding the matter.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-130-0040

Formal Stewards/Judges' Hearing

(1) If the board of stewards/judges has reason to believe that a violation has occurred, they may hold a formal hearing after providing written notice to the licensee. The written notice shall:

(a) Cite the statutes or rules which were allegedly violated.

(b) Briefly describe the time, place, and nature of the alleged violation(s).

(c) Identify the type of penalty or sanction which may be imposed.

(d) Specify the time and place of the hearing, at least three calendar days after service of the notice excluding Saturdays, Sundays, and legal holidays, unless all parties agree to an earlier time.

(e) State that the licensee may be represented by an attorney licensed to practice in the state of Oregon.

(f) Be personally served within the timeline set forth in OAR 462-130-0040(1)(d) or mailed by first class mail to the current address on file for the licensee at least ten days prior to the hearing.

(2) If given the option by the board of stewards, the licensee may waive the right to a formal stewards'/judges' hearing by signing a waiver agreeing to the penalty or sanctions listed on the waiver. By signing the waiver the licensee waives the right to appeal the penalty to the commission, as provided by OAR 462-130-0050.

(3) If the licensee does not sign a written waiver, the board of stewards/judges shall hold a formal hearing. At least two stewards/judges shall be present. The fact finding portion of the hearing shall be open. The state steward/judge or designee shall preside, and within reason, shall allow all available evidence to be presented, without regard for technical rules of procedure or rules of evidence. All witnesses must testify under oath. The hearing may be recorded. After hearing the evidence and any closing statements, the stewards/judges may deliberate in private before making a decision. Unless the charges are dismissed, the decision shall be put in the form of a written order either finding the licensee guilty of a violation or referring the case for a formal commission hearing or a combination thereof. If the licensee is found guilty of a violation, the order shall:

(a) Identify the licensee by name and license classification.

(b) Identify the specific statutes or rules violated.

(c) Set forth the findings of fact which establish the violation(s).

(d) Indicate the penalty or sanctions to be imposed, and when they are to go into effect.

(e) Inform the licensee of the right to appeal to the commission and to request a stay pending appeal as provided in OAR 462-130-0050.

(4) Copies of the order shall be delivered to each party. Thereafter, copies shall be sent to the commission and ARCI, posted in a designated area at the racecourse for a period of two racing days. Fines must be paid within ten calendar days of the date of service.

(5) The licensee may still appeal the matter to the commission for a formal commission hearing, and for good cause may request that the commission executive director stay the stewards'/judges' penalty pending the commission hearing. The executive director has discretion whether or not to grant the stay.

(6) Any licensee who fails to appear before the stewards/judges after having been given notice by the stewards/judges, a racing official, or an investigator of the commission, in accordance with these rules or by any ruling or order which has been issued and published directing such appearance, may be suspended and the case may be referred to the commission. Failure to appear in response to such order shall be a separate cause for disciplinary action.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.405

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 2-2008, F. & cert. ef. 9-30-08

462-130-0050

Appeal to the Commission; Stay Pending Appeal

(1) Any person who is the subject of any order or ruling of the stewards/judges may request a hearing under ORS 183 (the Oregon

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Administrative Procedures Act) before an administrative law judge and subsequent commission consideration of the proposed order regarding the matter, other than as to the extent of disqualification for a foul in a race. The appeal must be in writing and filed with the commission offices at Portland State Office Building, 800 NE Oregon Street, Suite 310, Portland, Oregon 97232, within ten days from the effective date of the order or ruling unless a different time is expressly specified. Any appeal concerning the board of stewards/judges decision regarding a claim of foul or inquiry must be filed with the commission offices at the Portland State Office Building, 800 NE Oregon Street, Suite 310, Portland, Oregon 97232, within 72 hours of the action or inaction which provides the basis of the appeal. The appeal must be signed by the appealing party and shall set forth clearly and concisely the following information:

(a) The order, ruling, or decision to be reviewed and the date thereof.
(b) The specific acts or failure to act which gave cause to the appeal and the dates thereof.

(c) The reasons for the appeal.

(d) The address to which any notices from the commission may be mailed to the appealing party.

(2) An appeal from an order or ruling of the stewards/judges to the commission shall not affect such decision until the appeal has been acted upon by the commission, unless otherwise ordered by the commission or by a court of competent jurisdiction.

(3) At the time a licensee submits a written appeal to the commission, the licensee may request in writing that the commission stay the effective date of any penalty or sanction imposed by the stewards. The request should state any good cause that supports the request. The executive director or commissioner in the absence of the executive director may, in his/her discretion, grant the stay for good cause shown.

(4) An appeal may not be withdrawn except with the approval of the executive director.

(5) Appeals to the commission shall be heard within 90 days from the date the appeal request is received in the commission's main office, unless a continuance is requested by the licensee or the assistant attorney general and approved by the executive director or the hearings officer.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.405

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, F. & cert. ef. 9-30-08

462-130-0060

Commission Hearing

The commission may initiate a formal hearing on its own motion, or shall have a formal hearing held as a result of receipt of an appeal as provided in OAR 462-130-0050 or upon referral from the stewards/judges. Commission hearings shall be conducted by an administrative law judge from the Office of Administrative Hearings under ORS 183 (the Oregon Administrative Procedures Act). Commission hearings conducted by the Office of Administrative Hearings will be de novo, which means the commission will consider anew all evidence and charges against the licensee. Subject to objections which may be made at the hearing, the commission may incorporate all or part of the stewards'/judges' record into its own record. If the commission concludes that a violation occurred, it may order any appropriate penalty or sanction, including but not limited to warning, letter of reprimand, probation, fine, suspension, license revocation, exclusion, or any combination. Final orders of the commission may be appealed to the Oregon Court of Appeals as provided in ORS 183.480.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.405

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0010

Authorized Agent

An authorized agent may act for the registering owner as set forth in the application form. No authorized agent may sign on behalf of any owner the certificate of registration for any racing animal in the absence of a valid power of attorney authorizing such signature.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0025

Photofinish Operator

(1) The photofinish operator shall maintain the photofinish and timing equipment in proper working order, shall photograph each race, and shall notify the stewards/judges if lighting is insufficient to take adequate photos.

(2) When the "photo" sign is posted by the stewards/judges, the photofinish operator shall prepare a photograph which shall be promptly made available for public viewing.

(3) The photofinish operator shall keep all digital files for each race. These digital files shall be available for reference or reproduction at the commission office for 90 days after the last day of the race meet.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 2-2008, F. & cert. ef. 9-30-08

462-140-0030

Vendor

Vendors must have a list of products they sell attached to the license application and a current copy of all state permits and licenses to dispense such products. The list of products and any changes to that list must be approved by a commission veterinarian and/or stewards/judges.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0040

Veterinarian

(1) No one shall practice veterinary medicine on a racecourse unless licensed by the Oregon Board of Veterinary Medical Examiners, with a current copy annually of said license on file with the Oregon Racing Commission, as well as licensed with the Oregon Racing Commission. Veterinary assistants shall only perform their duties under the direct supervision of a licensed veterinarian.

(2) Veterinarians performing services on a racecourse shall report all animals nerved, all treatments and all medicines given and prescribed each day on forms provided by the commission. These reports shall be mailed or placed daily in the locked receptacle provided by the commission veterinarian. In the case of lasix, treatments shall be recorded on a program, overnight, or other form approved by the commission veterinarian.

(3) Veterinarians on a racecourse shall use one-time disposable needles and shall dispose of all medical waste, i.e., needles, syringes, used bottles and/or other medication containers, etc., off the racecourse.

(4) No person, other than a veterinarian licensed by the Oregon Racing Commission, shall dispense, sell or furnish any feed supplement, veterinary preparation, medication or any other substance containing a prohibited drug or prescription medication to any person within the licensed enclosure. Any such products must be properly labeled as required by state law specifying the name, address and phone number of the dispensing veterinarian, the name of the trainer or owner of the animal, the name of the animal for which the product is prescribed, the name and strength of drug/medication, complete directions for use of the medication, and the minimum expected withdrawal time of the medication prior to a race. The label shall also have the words; "Caution, contains medication that is prohibited in racing animals. Use of this medication could result in violation of medication rules."

(5) Every racing animal which suffers a breakdown on the race track in training or in competition and is destroyed, and every other racing animal which expires while on a racecourse under the jurisdiction of the commission, shall undergo an examination to the extent that satisfies a commission veterinarian and that is reasonably necessary to determine the injury or sickness which resulted in euthanasia or natural death:

(a) The examination required under this rule will be conducted by a licensed veterinarian employed by the owner or trainer in consultation with the commission veterinarian, who may be present at such examination.

(b) A commission veterinarian has the ultimate decision, with or without the consent of the owner or trainer, to require further examination and testing on any expired horse for reasons including but not limited to those that would impact or be a threat to humans or animals. Should the commission veterinarian require such an examination or testing, the Oregon Racing Commission shall be responsible for the cost incurred.

(c) Test samples must be obtained from the carcass as directed by the commission veterinarian during the postmortem examination and sent to a laboratory approved by the commission for testing for foreign substances or their metabolites and natural substances at abnormal levels. When practical, samples shall be taken from the racing animal prior to euthanasia.

(d) The cost of laboratory testing of postmortem samples shall be borne by the commission.

(6) All veterinarians must conform their practice, at the least, to the minimum standards of the Oregon Veterinary Practice Act.

(7) Maintain security of controlled substances as required by law.

(8) All veterinarians shall provide the commission veterinarian and track security with current office and emergency telephone numbers five (5) days before the opening of each race meet at which they intend to practice.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, F. & cert. ef. 9-30-08

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462-140-0060

Commission Steward(s)/Judge(s); Authority

(1) Except for small fair meets, the board of stewards/judges shall consist of the presiding state steward/judge, deputy state steward/judge, and a race meet licensee steward/judge, approved by the commission. The board of stewards/judges is responsible for the proper conduct of the race meet and for the enforcement of the statutes and rules of racing. During the temporary absence of one or more stewards/judges, the remaining steward/judge(s) or the executive director of the commission may appoint a deputy or deputies to act temporarily for those absent. All decisions, rulings, and orders of the board of stewards/judges must be made by a majority of the stewards/judges. The stewards'/judges' authority begins 30 days before, and extends 30 days after the conclusion of the race meet unless shortened, extended, or re-instituted by the executive director of the commission.

(2) The board of stewards/judges has the authority to take any action expressly authorized by ORS chapter 462 or the rules of racing. The board of stewards/judges also has the authority to take any appropriate action not expressly authorized by these rules in order to ensure a fair race and to protect the best interests of racing.

(3) The stewards/judges have authority over licensees of the commission and all persons on a racecourse. Persons entering racing animals or allowing racing animals to be entered to run at licensed Oregon racecourses agree in so doing to accept the decision of the stewards/judges on any questions relating to a race or racing, subject to their right to hearings and right of appeal as provided in these rules. The board of stewards/judges may override the decision of any racing official with regard to the rules of racing, subject to review by the commission.

(4) The stewards/judges may suspend on an emergency basis the license of any person whose actions are detrimental to the best interests of racing and which are seriously dangerous to the health or safety of the person, the public or another person involved in racing. An emergency suspension or a penalty suspension following a hearing may include ruling off of the licensee. When based upon evidence that the person is currently ruled off by an official body of another racing jurisdiction, the person may be ruled off whether the person is licensed or not. If an emergency suspension is imposed under this rule, the person is entitled to a post-suspension hearing. The suspension may not exceed 365 days unless so ordered by the commission.

(5) The stewards/judges have the authority to investigate any matter relating to racing. The stewards/judges shall have control over and be granted immediate access to all areas of the racecourse.

(a) Judges shall be given prompt access for inspection of kennels and/or Oregon greyhound farms owned/operated by licensees.

(b) At least two members of the board of judges shall inspect all booked kennels at least once during each race meet and shall issue their findings to the commission and to the race meet licensee.

(6) The stewards/judges have the authority to order a prompt examination of any racing animal which has been entered or which has run a race, and may disqualify any racing animal which appears to have been the subject of corrupt or illegal practices, which has interfered with another racing animal during an official race or official schooling race, or whose jockey has interfered with another horse or jockey.

(a) The stewards may examine or have examined any horse registered for racing. The stewards may scratch any ineligible horse.

(b) The judges may by written order permanently rule off any greyhound that has quit or interfered twice during its official racing career in Oregon, subject to the right of appeal by the licensed owner, kennel owner, or trainer.

(7) The stewards/judges have the authority to impose penalties and sanctions under the procedures set forth in these rules, but only for specific violations of ORS chapter 462 or these rules. They may not impose sanctions against commission employees, but may investigate and recommend disciplinary action to the executive director or commission.

(8) The stewards/judges may, at their discretion, hold informal hearings on matters other than violations, using the same procedures set forth in these rules for violations.

(9) In the event of an emergency which prevents an owner or trainer from performing his/her necessary duties, the stewards/judges may appoint a qualified person to temporarily perform those duties. For good cause, the stewards may substitute a jockey of their choice on any horse or place a horse temporarily in charge of a trainer of their choice.

(10) When a racing official other than a steward/judge or commission employee is absent, the race meet licensee may appoint a temporary or permanent replacement, subject to approval by the stewards/judges, or, in exigent circumstances, the stewards/judges may appoint a temporary replacement. All appointments are subject to confirmation by the commission, but appointees may exercise their appointed duties pending confirmation.

(11) The stewards/judges shall investigate promptly and render a decision on every objection and on every complaint made to them. The stew-

ards/judges shall report all objections and complaints to the commission as soon as received by them, and shall make prompt written report of their investigation and decision to the commission's executive director.

(12) The judges/stewards, being duly notified in writing of financial irresponsibility by a licensee, shall conduct an investigation into the matter, including but not limited to a hearing. If the result of such investigation or hearing clearly shows a licensee to be financially irresponsible and remiss concerning his/her just debts as provided in this section of this rule, the judges/stewards may impose such ruling as may be consistent with the circumstances in conformity with the best interests of racing.

(13) One steward must be on duty each morning from scratch time until conclusion of the draw.

(14) During each racing day at least one of the judges shall be on the racecourse not later than weigh-in time.

(15) No person other than the commissioners or executive director shall be allowed in the stewards/judges stand unless previous permission is obtained from the stewards/judges.

(16) The presiding state steward/judge or deputy state steward/judge or appointee shall sound the bell closing the pari-mutuel machines no later than the opening of the starting gate/box.

(a) The stewards/judges shall make a final decision as to whether a start was fair after consultation with the starter. Also, after consulting with the starter, the stewards/judges shall make the final decision as to whether any racing animal was prevented from starting in a race through failure of the starting gate/box to open.

(b) The judges shall closely observe the operation of the lure and the conduct of the greyhounds in a race.

(17) The stewards/judges have final authority to decide the order of finish of any race. They shall promptly display the numbers of the first three racing animals in each race in the order of finish and shall not declare the race official until they have made a final determination as to which racing animal finished first, second and third.

(18) The stewards may place any horse on the "Stewards' List" or suspend any horse for poor performance or other good cause. The stewards may at any time require proof that a horse is qualified for a particular race or proof that a horse is owned only by qualified persons. If satisfactory proof is not offered, the stewards may disqualify the horse.

(19) The board of stewards/judges shall determine the condition of the track's running surface.

(20) The presiding state steward/judge shall immediately report to the commission any "No-Race" declared by the stewards/judges, with a detailed explanation as to its cause.

(21) The stewards/judges shall maintain a daily log of all infractions of the rules and of all rulings of the stewards/judges upon matters coming before them during the race meet.

(22) The presiding state steward/judge is responsible for making sure that all reports required by this rule are promptly submitted to the commission.

(23) When placing judges are not appointed, the stewards shall perform the placing judge functions.

(24) The board of stewards/judges shall establish post times; however, post times may be established by the race meet licensee subject to approval by the board of stewards/judges.

(25) Rules for Small Meets:

(a) These rules shall apply for all small fair meets of 10 days or less except as otherwise directed by the commission, or unless circumstances require a change and the state steward approves the change.

(b) The board of stewards are granted jurisdiction for a period of 90 days after the conclusion of a small fair meet to hold hearings and take action with regard to any aspect of racing at the meet.

(c) Hearings may be conducted by a single knowledgeable person designated by the commission if it is deemed by the commission to be more practical or convenient for the parties concerned. Any person acting in lieu of the board of stewards under this rule shall have all of the authority granted to the board of stewards under OAR 462-130-0030 and 462-130-0040 or any other applicable rule. A party may appeal any action taken in the same manner as an appeal may be submitted as a result of action taken at a stewards' hearing.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.405

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0070

Commission Veterinarian

(1) A commission veterinarian is responsible, to the extent possible, for ensuring that horses/greyhounds coming upon the race course do not pose a health or safety problem to themselves or other racing animals. A commission veterinarian is authorized to check all animals coming on to the racecourse and to exclude and/or scratch any animal that may pose a health or safety problem in his/her opinion.

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(2) A commission veterinarian shall be granted immediate access to any racing animal on or off the racecourse which has recently run a race or has been entered in a race. A commission veterinarian may examine or cause to be examined any racing animal on the racecourse and may take or cause to be taken blood, urine, saliva or other body fluids or samples for examination.

(3) A commission veterinarian shall observe all racing animals to ensure that all racing animals allowed to participate are, in his/her opinion, in sound racing condition and that its participation in a race is not contrary to the best interest of the racing animal.

(4) A commission veterinarian is authorized to scratch a racing animal from a race if, in the commission veterinarian's opinion, the animal is not in sound racing condition, may pose a health or safety problem to it's self or others, or that its participation in a race is contrary to the best interest of the racing animal. The commission veterinarian shall immediately notify the judges/stewards of the scratch.

(5) A commission veterinarian shall maintain a list, to be known as the "Vet's List", of racing animals that the commission veterinarian has reason to believe are uncontrollable, sick, injured, illegally medicated, are a danger to themselves or other racing animals, or are not in sound racing condition. Racing animals may only be removed from the "Vet's List" with the approval of a commission veterinarian.

(6) When necessary, a commission veterinarian is authorized to take immediate steps without approval of a racing animal's owner or trainer to protect the health and safety of the racing animal or other racing animals. This includes administering drugs and/or medications for treatment and/or humane euthanasia. In any other situation in which a commission veterinarian determines that a racing animal should be removed from the racecourse or scratched from a race, a commission veterinarian may order the racing animal removed or scratched.

(7) Except in the case of an emergency, a commission veterinarian, while employed by the commission, may not prescribe any medication for or treat any animal which will race on a racecourse in Oregon, with or without compensation. When emergency treatment is given a commission veterinarian shall make a complete written report to the stewards/judges.

(8) A commission veterinarian or designated assistant shall secure blood, urine or other samples, as specified by the commission, of winning racing animals and of other racing animals designated by the stewards/judges or commission veterinarian. Unused sealed containers furnished by the official laboratory designated by the state must be used for collecting specimens for analysis.

(9) A commission veterinarian will not conduct searches but may be involved in searches conducted by the commission investigators.

(10) Horses only.

(a) A commission veterinarian shall verify the conditions of all horses reported to be nerved prior to the horse's first entry in a race meet or continuous race meet.

(b) A commission veterinarian shall be available, by telephone, radio or in person, to the stewards and racing secretary at scratch time, until the close of entries, and at least one hour prior to the first post. A commission veterinarian shall leave the paddock as the last horse leaves the paddock, or as a commission veterinarian deems practical, for each race and shall observe the horses during the post parade, warm up, and at the starting gate.

(11) Greyhounds only.

(a) When a commission veterinarian determines that a greyhound on the race track is coming in season or in milk, the veterinarian shall place the greyhound on the "Vet's List", order the greyhound removed from the race track, order the greyhound restricted from starting for fourteen (14) days, and notify the judges. In any other situation in which a commission veterinarian determines that a greyhound should be removed from the race track or scratched from a race, the veterinarian shall notify the judges.

(b) A commission veterinarian (or designee) shall be on the racecourse at weigh-in time and examine the physical condition of each greyhound at weigh-in time. For maiden graduation races a commission veterinarian (or designee) shall examine the physical condition of each greyhound at weigh-in time.

(c) A commission veterinarian (or designee) shall periodically inspect the lock-out kennels to ensure that the lock-out kennels are clean, sanitary, and in good repair, and that they contain nothing for the greyhounds to consume.

(d) A commission veterinarian, along with the paddock judge, shall establish a list of greyhounds whose performance in the paddock or during a race demonstrates that the best interests of racing would be served by scheduling the greyhounds in early races. The list shall be known as the "Weight-Loser's List". Except for "special" and "stake" races greyhounds on the "Weight Loser's List" may be drawn only into the first six pari-mutuel races for which it's weighed in. A commission veterinarian, however, may authorize a greyhound in a later race in order to determine whether the greyhound should be taken off the list. A commission veterinarian may take a greyhound off the list whenever he/she determines that the reason(s)

for placing the greyhound on the list no longer exist. A commission veterinarian may place greyhounds on the "Weight Loser's List" under the following circumstances;

(A) The greyhound has lost three or more pounds between weigh-in and weigh-out; or

(B) The greyhound has a history of poor performance during late races (seventh race or later).

(e) At the end of each race day a commission veterinarian shall notify the racing secretary, board of judges and the paddock judge in writing of all additions to and the deletions from the "Weight Loser's List" and the "Vet's List".

(f) A commission veterinarian shall view the running of each race, whenever possible.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2004, f. & cert. ef. 4-8-04; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0100

Commission Investigator(s)

(1) The Oregon Racing Commission investigative staff will consist of a chief investigator and investigators.

(2) The investigative staff has the authority to investigate all violations of ORS chapter 462 and administrative rules as they pertain to racing and pari-mutuel wagering. The investigative staff shall be granted immediate access to all areas of the racecourse, off-track wagering sites, hubs, greyhound farms/kennels, and licensed training tracks.

(a) The investigative staff has the authority to conduct background investigations on any licensee or person requesting to be licensed.

(b) The investigative staff will investigate any matter referred to it by the Oregon Racing Commission, executive director or board of stewards/judges.

(3) The investigative staff will enforce all of the laws and rules specified in ORS chapter 462 and administrative rules as they pertain to racing.

(4) The investigative staff will collect and preserve evidence in all matters in which the Oregon Racing Commission is or may be a party of interest.

(a) For purpose of OAR 462-130-0010(3)(a) the investigative staff are designated racing commission representatives for the purpose of directing any licensee to submit to a breathalyzer test or to submit a urine specimen for analysis.

(b) For purpose of OAR 462-130-0010(3)(b) the investigative staff are designated racing commission representatives for the purpose of directing any licensee to deliver in the presence of a steward or commission representative a sample of urine for laboratory analysis.

(5) The investigative staff will refer all matters which may be a violation of ORS chapter 462 or rules of racing to the appropriate board, hearing officer or commission upon the completion of an investigation.

(6) The investigators shall monitor and inspect the off-track wagering facilities (OTBs) as the Oregon Racing Commission's direct representative. The investigators monitoring the off-track wagering facilities will have general regulatory authority over all wagering activities at the facility and are authorized to stop all wagering activities in the case of any malfunction of the simulcast system at the facility, or other reason set forth in these rules.

(7) The investigators may, under circumstances requiring immediate attention, take any appropriate action not expressly authorized by these rules or ORS chapter 462 in order to protect the best interests of racing. Any action taken by the investigator not expressly authorized by these rules or the statute is subject to review by the Oregon Racing Commission.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0125

Commission Supervisor of Account Wagering Hub

(1) The supervisor of account wagering hubs is responsible for ensuring that licensed multi-jurisdictional simulcasting and interactive wagering totalizer hubs (hubs) and operation plans for hub applicants are in compliance with ORS 462 and OAR 462.

(2) The supervisor of account wagering hubs monitors, evaluates and recommends necessary security systems, practices and procedures for hub licensees to ensure the integrity of the hub operating systems.

(3) The supervisor of account wagering hubs shall report any failure of the licensee to comply with the provisions cited herein or of any violation of the laws, rules or regulations of the commission which may come to his/her attention. The report should include any recommendations with respect to the revocation of the licenses of any employee of the hub licensee for failure to comply with the rules or regulations of the commission, or for fraud, dishonesty, or incompetency.

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(4) The supervisor of account wagering hubs has the authority to request any business or financial documents and/or conduct audits of all wagering transactions to ensure wagering integrity and accurate tax payments on licensee handle.

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.270
Hist.: RC 2-2008, F. & cert. ef. 9-30-08

462-140-0130

Race Meet Licensee

(1) License Application. Applications for racing dates must be in the office of the commission when required by the commission.

(2) Racing Officials. The race meet licensee shall hire all necessary racing officials and shall submit to the commission for approval the names of all proposed racing officials and their assistants, except commission employees, at least 45 days prior to the proposed race meet. This deadline may be waived by the commission for good cause. Substitutions of racing officials may be made from time to time as provided in OAR 462-140-0060(10). The race meet licensee shall provide the commission, for confirmation, timely updates of the list of officials and their assistants when changes are made. The commission may appoint an employee of the commission to serve as a racing official for any race meet and may require the race meet licensee to pay the employee's compensation.

(3) Safe and Clean Facilities. The race meet licensee shall provide all facilities necessary for the proper conduct of the race meet and shall take every reasonable precaution to make all areas of the racecourse safe and shall ensure that the paddocks, starting gate, test barn and other equipment with which racing animals may come in contact are kept in a clean condition and free of dangerous surfaces. The race meet licensee shall keep the grounds of the racecourse in a clean condition.

(4) Commission Offices. The race meet licensee shall provide adequate office space properly equipped and maintained for the use of the commission and its designated representatives. Office space includes, but is not limited to, general offices and stewards' office. Upon request, the race meet licensee shall furnish suitable space and accommodations for fingerprinting and photographing license applicants.

(5) First Aid. During racing hours the race meet licensee shall provide and equip a first aid room within the racecourse and shall have present on the premises a licensed physician or registered nurse unless otherwise authorized by the board of stewards. :

(6) Equine Ambulance.

(a) The race meet licensee shall provide an equine ambulance attached to a tractor or vehicle for the immediate removal of an injured animal from the racecourse. The ambulance shall be available during racing and training hours and the period preceding the official opening of the race meet.

(b) The race meet licensee shall require a licensed veterinarian to be on the grounds during racing hours for the immediate treatment of an injured animal on the racecourse.

(c) The race meet licensee shall have available either a licensed veterinarian on the grounds and/or a list of available veterinary clinics with emergency contacts and phone numbers for timely treatment of an injured animal on the racecourse during training hours.

(7) Every race meet licensee shall operate its own pari-mutuel department, and in no event shall subcontract or let to concessionaires the operation of the pari-mutuel department or any part thereof without commission approval.

(8) Totalizator. The race meet licensee shall maintain a satisfactory totalizator system, including a tote board.

(9) Post-Race Test Area. The race meet licensee shall furnish a post-race receiving area approved by the commission veterinarian, with sufficient facilities to safely collect, store and secure saliva, urine, and/or blood samples from racing animals.

(10) The race meet licensee shall provide adequate racing silks, saddlecloths, head numbers, lead weights, and other standard equipment.

(11) Photofinish; Timing Devices. The race meet licensee shall provide a sufficient amount of light at the finish line for nighttime and twilight racing and shall install two automatic timing devices approved by the commission, and shall provide a photofinish booth meeting standards set by the commission. (The cost of photofinish services for pari-mutuel races shall be an expense of the commission)

(12) Tip Sheets. The race meet licensee may contract with no more than two persons to sell tip sheets on the racecourse during a race meet. Tip sheets obtained from out-of-state host tracks which are part of the race meet licensee's simulcast program shall not count against the limit of two tip sheets. The race meet licensee shall provide booths and utilities for the tip sheet sellers, and may charge a reasonable fee for their use. The race meet licensee shall not allow anyone to sell tip sheets who is not licensed by the commission and shall not allow tip sheets to be sold in wagering areas. Tip sheets must be sold from a booth, and the previous day's sheets and out-

comes must be displayed on the front of each booth. Tip sheets must be independently handicapped, and each handicapper must sign and deliver such sheet at least one hour before post time to the commission office located on the racecourse.

(13) Security. The race meet licensee shall provide a sufficient number of security personnel to provide adequate security for all areas of the racecourse, including parking lots, test barn, and stable areas, and shall ensure that unlicensed individuals do not enter restricted areas. The race meet licensee and its security personnel shall cooperate with local authorities and with commission personnel in enforcing the rules of racing and the laws of this state, and shall promptly inform commission stewards of all violations of ORS chapter 462 and the rules of racing. All security reports and records will be made available in a timely manner to commission investigators, the board of stewards and/or the executive director.

(14) Commission Access. Members, employees, and representatives of the commission shall be given full and complete access to any and all areas of the racecourse at which a race meet is being held.

(15) Transmission. Any person desiring to broadcast, televise or transmit from the track by press wire pertinent information relating to any feature race run at the track shall first file with the commission, for its approval, an application stating the particular feature races and dates that it desires to broadcast, televise or transmit, together with the name and address of the representative of the public press, radio, or television authorized to broadcast, televise or transmit the requested information. Other than at approved off-track wagering facilities, shall the exact odds be announced, nor shall pay off of winners be given until the result of the race has been declared "official".

(16) Attendance Report. The race meet licensee may make a daily attendance report to the commission, unless otherwise authorized by the commission.

(17) Conflict of Interest. No employee, officer, or director of a race meet licensee shall be permitted to own, lease, or have any other interest in any racing animal entered for racing on the race meet licensee's racecourse, unless approved by the commission.

(18) Waste Disposal. The race meet licensee shall provide, secure and maintain medical waste containers as approved by the commission or commission designee.

(19) Parking Permits. When requested by the commission, the race meet licensee shall designate a parking area for commission members, employees, and special guests who are in possession of parking permits issued by the commission. Parking in the designated area shall be free.

(20) Communication System. The race meet licensee shall provide an adequate on track/outside communication system as required by the commission.

(21) Stalls. The race meet licensee shall attempt to be fair and equitable in assigning stall space, and shall provide receiving stalls for horses which are brought onto the racecourse from outside stable space for a race.

(22) Records of Horse Movements. The race meet licensee shall maintain a record of arrival and departure of all horses from the stable area.

(23) Numbered Buildings. All stables, barns and stalls shall be numbered or otherwise clearly identified.

(24) Track Kitchen. The race meet licensee, or other person approved by the race meet licensee, may maintain and supervise a kitchen in the stable area and shall supervise any other area where food or drink is dispensed. All food service facilities shall comply with state and local health and sanitation requirements.

(25) Distance Pole Markers. Distance pole markers must be 10 feet from the rail and shall be painted as follows:

(a) 1/4 poles — red and white;

(b) 1/8 poles — green and white;

(c) 1/16 poles — black and white.

(26) Horseman's Accounts. Unless otherwise authorized by the commission, the race meet licensee shall keep a separate account, to be known as the "horseman's account", with sufficient funds to cover all monies due horsemen in regard to purses, stakes, rewards, claims, and deposits. Only those persons in whose name the account is established, or their duly authorized agent, may make withdrawals from the account.

(27) Race Track Safety Standards. Any racetrack on which a licensed race meet is conducted must meet the following standards unless otherwise authorized by the commission for good cause:

(a) Rails. All racing surfaces must have inner and outer rails of a design and construction approved by the commission:

(A) Permanent rails must be made of a material which will take the impact of a horse without breaking away. All rail posts must be set in concrete at least 6 inches below the surface and at least 24 inches deep. The height of the rail must be 40 inches plus or minus 2 inches from the top of the cushion to the top of the rail. The top rail must be bolted or welded to the posts and should be smooth with no jagged edges.

(B) For race meets or continuous race meets that are licensed to run 25 days or more per fiscal year, the inside rail shall be permanent of goose-

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neck design and have no less than 24-inch overhang with a continuous smooth elevated cover which entirely covers the overhang.

(C) For race meets or continuous race meets which are licensed to run for 24 days or less during a fiscal year, the design of the rail is subject to the approval of the commission during the licensing hearing, with consultation from the executive director, the stewards, the race meet licensee(s), and the jockeys riding at the meet or their representative. In order to facilitate this provision the executive director, the director or racing for the race meet(s), the stewards and the jockeys or their representative shall discuss needed improvements for the next year's race meet during or at the conclusion of each meet.

(b) Gates (Gaps). No gate openings in a rail may be over 10 feet long without a center support. The top rail of the gate must be secured to the top of the rail. Gate openings should not look any different from the rest of the rail. All gates, other than the "On" and the "Off" gates during training, must be closed during racing and training. "On" and "Off" gates for horse access during training should be placed at least 50 feet apart.

(c) Morning Starting Gate. The starting gate used for morning schooling shall be placed far enough from the "On" and "Off" gates (gaps) so that horses coming on and going off the track will not interfere with or distract morning schooling or breaking from the gate.

(d) Obstacles. No obstacle or device, such as distance pole markers, electrical boxes, timers, starter's stands, patrol judge's stands, etc. shall be placed within 10 feet of the back of the bottom of the rail post unless made flexible or break-away.

(e) Drainage Ditches or Holes. Any drainage ditch or hole behind the inside rail must be covered with soft material level with the ground surface.

(f) Lighting. All race track lighting systems for nighttime racing must have an operational emergency generator or battery back-up system which is serviced and tested at least once a month during the track's racing season. Servicing and testing of the emergency lighting system must be documented in writing and available to the commission staff upon request.

(g) Ambulance.

(A) The race meet licensee shall provide an ambulance with standard medical equipment and certified paramedics or Emergency Medical Technicians (EMT) for protection of patrons and racing personnel during the conduct of a race meet, including workouts, and during the training period preceding the official opening of the race meet.

(B) During racing, the ambulance and/or a certified paramedic or EMT must be at the starting gate before horses are loaded. If the ambulance is being used to transport an individual, the race meet licensee may not conduct a race until the ambulance is replaced.

(C) During racing the ambulance shall follow the field either on the track or in the infield unless otherwise directed by the stewards. The ambulance must be staffed by certified paramedics or EMTs, be properly equipped and otherwise be suitable for transporting an injured person from the track to a roadworthy ambulance for transport to a hospital. A back-up ambulance is to be in attendance during the absence of the main ambulance.

(h) Safety Committee. Any race track location which has 15 or more race days per year, regardless of the number of race meet licensees, will have a safety committee. The safety committee will be made up of two (2) representatives from the management of the race meet licensee, two (2) representatives from the jockeys riding at the track, two (2) representatives from the horsemen with papers in the race office at the track, and at least one (1) of the state stewards. This committee will be responsible for addressing unsafe conditions on the racecourse including the racing surface and recommending solutions to the conditions to the race meet licensee management, the racing commission executive director and/or the commission.

(28) Assistant Starters. The race meet licensee shall ensure that there is one assistant starter per horse in the race plus at least one assistant starter to shut the tailgates.

(29) Valets. There shall be at least one valet for every three horses in the maximum field size approved by the commission. (Assistant starters may also work as valets, if so licensed.)

(30) Fire Safety in Stable Areas:

(a) Every race meet licensee shall cause to be posted in the stable area of its premises the fire regulations applicable on its grounds and such posted notice shall also state the location of the nearest fire alarm box and the telephone number of the fire department or other pertinent instructions as to the method for reporting a fire in the area. Such notices shall be posted no more than one hundred (100) feet apart or as approved by the local fire authority. No race meet licensee, management or person shall violate the posted fire regulations specified by the commission.

(b) All trainers or their assistants and all concessionaires or their assistants shall acquaint themselves with and brief their employees as to the following:

(A) Smoking regulations.

(B) Location of fire notification system in immediate area of assigned barn.

(C) Location of all fire extinguishers and extinguishing equipment in assigned barn area.

(D) Regulations regarding occupancy, use of extension cords for extending electrical circuits, and use of electrical appliances.

(E) Regulations regarding storage and use of feed, straw, tack, and supplies.

(F) Track regulations with regard to fire and security, copies of which shall be provided to all trainers or their assistants and concessionaires or their assistants. These regulations shall be used in instructing members of the trainers' and concessionaires' staffs assigned to the barn area.

(c) Signs shall be posted in every barn and associated buildings dealing with the following information:

(A) Location of manual fire alarm stations, emergency telephones, or other methods of fire alert.

(B) Location of fire protection first-aid appliances.

(C) Emergency procedures specific to the particular track facilities.

(D) Location of nearest medical waste disposal containers.

(d) No open burning shall be permitted in the barn area.

(e) Smoking shall be prohibited except in designated safe areas. Proper warning signs shall be posted.

(f) Use of any portable electrical appliance shall be restricted to the following conditions:

(A) Multiple-outlet adapters shall be prohibited.

(B) Not more than one continuous extension cord shall be used to connect one appliance to the fixed receptacle, and such cord shall be listed for hard service and properly sized for the intended application.

(g) Extension cords shall not be supported by any metal object such as nails, screws, hooks, and pipes.

(h) Portable cooking and heating appliances shall be used only in spaces designated for such use provided they are separated from the stabling and storage areas of the barn.

(i) Portable electrical heating and cooking appliances shall be of a type that automatically interrupts electrical current to the heating element when the appliance is not in the normal operating position (tip-over disconnect).

(j) Use of exposed element heating appliances such as immersion heaters shall be prohibited.

(k) The storage of flammable and combustible liquids, except those used for medicinal purposes, shall be prohibited.

(l) The water supply shall be capable of providing pressure and discharge capacity required for automatically supplying sprinklers, hydrants, and hose lines.

(m) Fire protection must meet the local fire regulations.

(31) The race meet licensee shall have available current telephone numbers for twenty-four (24) hour emergency veterinarian care. The race meet licensee shall post an established procedure, approved by the commission veterinarian, for providing emergency veterinarian care five (5) days prior to until five (5) days past their race meet.

(32) Any race meet licensee failing to enforce these rules may be subject to fine or revocation of license.

Stat. Auth.: ORS462.250

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0140

Director of Racing

Commercial race meet licensees shall designate a person to act in the capacity of a director of racing. The designee shall act for the management of the race meet licensee in all matters pertaining to racing.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0150

Racing Secretary

(1) The racing secretary is responsible for maintaining a file of all registration papers and foal certificates on horses participating in the race meet. The racing secretary shall inspect all ownership and lease documents to be sure they are accurate, complete, and up-to-date. The racing secretary has the authority to demand the production of any documents or other evidence necessary in order to perform this responsibility. The racing secretary shall verify each racing animal's ownership and shall not allow any racing animal to run unless the racing animal is entered in the name of the legal owner as shown on the back of the registration/ownership papers, or on a legal lease attached to the registration/ownership papers, and unless the stable name is licensed, where the papers show a stable name.

(2) The racing secretary is responsible for receiving all entry forms for official racing, all scratch requests, and all subscriptions, nominations, and entrance monies. The racing secretary shall assure, to the extent

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possible, that all entry requirements have been met and continue to be met until the entry is withdrawn.

(3) The racing secretary shall be responsible for forming each race, and for ensuring that only racing animals which are eligible to start or race and which meet any special entry requirements are drawn into the race. The racing secretary shall make every effort to ensure fairness and equal opportunity for all racing animal owners and stable owners in the forming of all races.

(4) As soon as the entries have closed for each racing program, the racing secretary shall compile and post in a conspicuous place a list of entries, minus any subsequent withdrawals. Names of horses on the "Also Eligible" list shall also be compiled and promptly posted in a conspicuous place.

(5) The racing secretary shall keep a complete record of all races and shall immediately report to the stewards conditions which may require a scratch, and any violations of ORS chapter 462 or the rules of racing.

(6) The racing secretary is responsible for publishing the racing program and for the accuracy of the information in it.

(a) The racing secretary shall compile and cause to be printed for each racing day a program which shall legibly set forth for each race the amount of the purse, distance, conditions, names of racing animal which are to be run, their color, sex, age, breeding, state in which foaled, the name of their owner, lessee (if any), trainer, assistant trainer (if any), and jockey, the weight carried, order of their post positions, and such other information and notices to the public as the commission may direct.

(b) Once the official program is printed and placed for sale to the public, there shall be no changes in the program (except to correct printer's errors) unless a horse is legally scratched from a race. No program shall contain a loose insert, unless approved by the board of stewards.

(c) The racing secretary is responsible for the accuracy of all racing related material provided for the program.

(d) All daily programs sold at the racecourse must contain a prominent notice that there is an information window and/or complaint window in the clubhouse and grandstand where complaints may be made or filed in writing. The exact locations of these windows shall be set forth in the notice.

(e) All daily programs sold at the racecourse must clearly contain the following:

NOTICE: This race meet is licensed for 20___, License No. ___ by the Oregon Racing Commission and operates under its rules and regulations. The commission office is located at the Portland State Office Building, 800 NE Oregon Street, Suite 310, Portland, Oregon 97232.

(7) The racing secretary is responsible for writing a condition book and shall assign stalls in an equitable manner and shall maintain a record of arrival and departure of horses stabled on the racecourse.

(8) The racing secretary is responsible for custody and safekeeping of registration papers and foal certificates for all horses participating in the race meet, and for recording required information on them including all wins in Oregon. The racing secretary shall permit access to the registration papers and foal certificates only to authorized personnel, and shall allow them to be removed only by the trainer. If the racing secretary is aware that a trainer has been fired by an owner, the racing secretary shall not release any papers to either except with consent of both, or pursuant to court or arbitration order, or with the consent of the commission.

(9) The racing secretary shall place on the racing secretary's bulletin board the names of heel nerved horses, mares in foal and any other information requested to be posted by the stewards or the commission. Horses that have had an alcohol blocking of the nerve or nerves shall be considered to be nerved.

(10) The racing secretary shall promptly make available to the media records of workouts.

(11) Chart Books:

(a) The Quarter Horse Chart Book shall be the official chart form for Quarter Horse racing.

(b) The Appaloosa Chart Book shall be the official chart form for Appaloosa horse racing.

(c) The Arabian Jockey Club Charts shall be the official chart form for Arabian horse racing.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0170

Horse Identifier

(1) Identify all entries, using a written description of the horse, a copy of the original registration papers, or other methods approved by the stewards.

(2) Notify the stewards whenever a proper identification cannot be made.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0180

Track Superintendent

The track superintendent is responsible for the condition of the track and shall see that all equipment under his or her care is in the best possible condition, and that the track and equipment are maintained by qualified personnel.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0190

Stall Superintendent

(1) The stall superintendent is responsible for the condition of the stable area and shall see to it that manure is not permitted to accumulate in the stable area to keep rodents, flies, mosquitoes, and other insects to a minimum.

(2) The stall superintendent shall keep a record of all tack rooms and stall assignments made to trainers by the racing secretary, and furnish such lists to security, commission investigators, racing secretary, board of stewards, OHBPA and commission veterinarians on a schedule established by the stewards.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0230

Clerk of Scales

The clerk of scales shall:

(1) Weigh jockeys out and in, and ensure that riders carry the correct assigned weight.

(2) At the time of weighing out, record all overweightes and cause these to be announced publicly and posted in a conspicuous place before the running of each race.

(3) Ensure that the scales have been certified to be accurate by a reputable company or governmental agency prior to the start of the race meet.

(4) Check the scales for accuracy every race day.

(5) Maintain accurate scale sheets for each race.

(6) Ensure that a tag is attached to the bridle of all horses sent to the test barn by the board of stewards or commission veterinarian.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0290

Clocker

The clocker/timer shall keep an accurate record of all workouts on the track and shall promptly provide a copy of these records to the racing secretary and to the stewards on every race day. The record shall include the name of the horse, the time for all official workouts, and the results of all mandatory schooling. The clocker/timer shall time all races and keep a record of the times.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0310

Claims Clerk

(1) The claims clerk is a person designated to handle all claims as directed by the board of stewards. The duties are, but are not limited to:

(a) Knowing the claiming rules.

(b) Checking the claims.

(c) Contacting the stewards if at any time a problem develops.

(d) Handling the shake in a manner set by the stewards in the event more than one valid claim is deposited for the same horse.

(2) The claims clerk may be required to do other duties as designated by the association and/or the board of stewards.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0320

Trainer

(1) The trainer shall be responsible for and shall be the absolute insurer of the condition of horses entered in an official workout or race, regardless of the acts of third persons.

(a) The trainer is responsible for the presence of any prohibited drug, medication or other substance, including permitted medication in excess of the maximum allowable level, in such horses. A positive test for a prohibited drug, medication or substance, including permitted medication in excess of the maximum allowable level, as reported by a commission approved laboratory, is prima facie evidence of a violation of this rule.

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(b) If any of the trainer's duties are delegated to other personnel, the trainer remains responsible if those jobs are not properly done.

(c) The trainer shall be responsible for the condition and contents of stalls, tack rooms, and other areas which have been assigned to the trainer by the association.

(2) No trainer shall practice his/her profession except under the trainer's real and true name.

(3) A trainer is responsible for insuring that all employees and owners under his/her supervision, and any other person who assists the trainer in the performance of his/her duties, are properly licensed with the commission and shall report to the commission within 24 hours the discharge or change of any permanent employee.

(4) When a trainer is unable to perform the duties required of the trainer for a period of more than 24 hours, the trainer shall promptly notify the stewards and shall recommend another qualified person to assume the responsibilities of the trainer, subject to approval of the stewards. The trainer shall immediately advise the stewards when the regular trainer resumes his/her duties.

(5) The trainer shall ensure that all horses under his/her care are in sound racing condition and are eligible under the conditions of the race before entering a horse in any race. If a trainer discovers that an entered horse is ineligible or no longer meets all entry requirements and conditions of the race, or is not in sound racing condition, the trainer shall immediately notify the racing secretary and submit any required form. A horse is not in sound racing condition if it is ill, lame, injured, not properly plated, is blind, or its vision is seriously impaired in both eyes.

(6) It shall be the responsibility of the trainer to:

(a) Attend their horse in the paddock, saddle and/or supervise the saddling of the horse, unless the permission of the stewards has been given to send another licensed trainer as a substitute.

(b) Maintain the assigned stable area in a clean, neat and sanitary condition at all times:

(c) Ensure that fire prevention rules are strictly observed in the assigned stable area.

(d) Ensure the proper identity, custody, care, health, condition and safety of horses in his/her charge.

(e) Disclose the true and entire ownership of each horse in his/her care, custody or control. Any change in ownership shall be reported immediately to, and approved by, the stewards and recorded by the racing secretary.

(f) Train all horses owned wholly or in part by him/her which are participating at the meeting.

(g) Register with the racing secretary each horse in his/her charge within 24 hours of the arrival on association grounds.

(h) Ensure that, at the discretion of the Oregon Racing Commission, upon arrival at a licensed racetrack, each horse in his/her care is accompanied by a valid health certificate which shall be filed with the racing secretary.

(i) When and where required have each horse in his/her care that is racing, or is stable on association grounds, test for Equine Infectious Anemia (EIA) in accordance with state law and for filing evidence of such negative test results with the racing secretary.

(j) Use the services of those veterinarians licensed by the Commission to attend horses that are on association grounds.

(k) Promptly report the death of any horse in his/her care on association grounds to the commission veterinarian and to maintain compliance with the rules in governing post-mortem examinations.

(l) Maintain knowledge of medication record and status of all horses in his/her care.

(m) Immediately report to the stewards and the official veterinarian if he/she knows, or has cause to believe, that a horse in his/her custody, care or control has received any prohibited drug or medication.

(n) Represent an owner in making entries and scratches.

(o) Ensure the fitness of a horse to perform creditably at the distance entered.

(p) Ensure that his/her horses are properly shod, bandaged and equipped.

(q) Attend the collection of urine or blood sample from the horse in his/her charge or delegate a licensed representative or the owner of the horse to do so.

(r) Notify horse owners upon the revocation or suspension of his/her trainer's license. Upon application by the owner, the stewards may approve the transfer of such horses to the care of another licensed trainer, and upon such approved transfer, such horses may be entered to race.

(7) No trainer shall remove or permit to be removed from the racecourse any horse under his or her care without written permission of the racing secretary.

(8) The trainer shall see to it that the foal certificate of any horse in his/her care shows if a horse has been nerved, and shall verify that the

horse's name is on the list of nerved horses posted by the racing secretary, and shall inform the commission veterinarian of any nerved horses.

(9) No trainer shall employ a jockey for the purpose of preventing the jockey from riding in any race.

(10) Any trainer that accepts the responsibility, either whole or in part, for the care or racing of another trainer's horse or horses may be held equally responsible for any violation of the Oregon rules of racing that occur while in his/her care.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0340

Jockey

(1) Jockeys shall fulfill all engagements.

(2) A jockey who is engaged to ride shall report to the scale room 1 hour before 1st post time to report any overweight to the scale clerk, unless excused by the board of stewards or a person designated by the board of stewards.

(a) No jockey shall leave the jockey room, other than to ride in a race, until all engagements of the day have been fulfilled, except with express authorization of the stewards.

(b) After fulfilling all riding engagements, a jockey may leave, but may not re-enter the jockey room without permission of the stewards.

(c) A jockey who is not riding on any given day may not enter the jockey room during the time of pari-mutuel or qualifying trial races, except with permission of the stewards.

(d) Jockeys must be neat in appearance and must wear the colors of the race meet licensee.

(e) Jockeys must wear an approved safety helmet which must be properly secured upon entering the track.

(f) Only safety helmets that meet ASTM standards will be approved for use by jockeys.

(g) Jockeys must wear an approved safety vest weighing no more than two pounds, which is designed to provide shock absorbing protection to the upper body of at least a rating of five as defined by the British Equestrian Trade Association (BETA).

(h) Jockeys in a race shall wear a number on the right arm, and this number shall correspond to the saddle cloth number of the horse in the official program.

(3) No jockey shall own any racehorse racing in Oregon.

(4) No jockey shall wager on any race or accept the promise or token of any wager with respect to a race in a race meet in which he or she is participating, except from the owner or trainer of the horse the jockey is riding, and only on that horse.

(5) Jockeys shall report to the paddock immediately when summoned by the paddock judge.

(6) A jockey may have one jockey agent. All engagements to ride shall be made by the jockey agent.

(7) No jockey shall have an attendant other than a licensed valet. No jockey attendant shall wager on any race or place a wager for anyone else.

(8) A jockey who is under suspension for a riding infraction will not be permitted to fulfill any engagements, including stakes races, other than designated races. During the period of suspension, a jockey may be permitted to exercise or gallop horses during the morning hours at the discretion of the stewards.

(9) No jockey shall name him/herself on a horse without first having a call from the owner, trainer, or authorized agent.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2005, f. & cert. ef. 10-18-05; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0360

Pony Rider and Exercise Rider

(1) All exercise and pony riders shall wear a safety helmet and safety vest of the type approved by the commission when working, exercising, or ponying horses. The chinstrap of the helmet must be securely fastened.

(2) No device other than authorized riding equipment may be used for any workout.

(3) Pony riders are required to present a neat and clean appearance and conduct themselves in an orderly manner, and are prohibited from holding conversations with the public or from holding any unnecessary conversations with one another enroute to the starting gate. Smoking is not allowed during the post parade.

(4) Pony riders may not wager on the results of any race in which they perform official duties.

(5) No pony which is leading a horse in the post parade shall obstruct the public's view of the horse it is leading, except with permission of the stewards.

ADMINISTRATIVE RULES

(6) Pony and exercise riders may provide assistance to a trainer in the paddock.

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.270
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-140-0370

Jockey Agent

(1) No person other than the jockey with no agent or a licensed jockey agent properly employed by the jockey shall make engagements for or manage a jockey. A jockey agent must apply to the commission for a license and the application shall bear the signatures of the riders that the jockey agent represents.

(2) No jockey agent shall be permitted to contract riding engagements for more than three jockeys. Each jockey agent shall maintain accurate records of all engagements and shall make those records available for examination by the stewards at all times:

(a) No jockey agent shall name his/her jockey on a horse without first having a call from the owner, trainer or authorized agent.

(b) The jockey agent shall not give out more than one first call and one second call for his/her jockey in any race.

(c) A jockey agent is the authorized representative of a jockey if he/she is registered with the stewards as his/her representative by the employing jockey. Jockeys are bound by engagements made on their behalf by their agents.

(d) The officials may require that the jockey agent file his/her first, second calls with the racing secretary and may require the jockey agent to display his/her record of engagements. A trainer or owner may demand a written confirmation of an engagement from a jockey or his/her agent. Conflicting claims for the service of a jockey shall be decided by the stewards.

(3) When a jockey dismisses a jockey agent, the jockey shall give immediate notice to the stewards in writing setting forth the reasons for dismissal of the jockey agent.

(4) Jockey agents are not permitted to:

(a) Enter the paddock, winner's circle, an unauthorized area or jockey room during racing hours, except with permission of the stewards.

(b) Communicate with any jockey in the jockey room during racing hours without permission of the stewards.

(c) Hold any other license as long as he/she holds a jockey agent license or perform any other duties unless written permission is granted by the stewards.

(5) No jockey agent shall wager on any horse in a race in which he or she is an agent for a rider, other than on the horse ridden by the jockey for whom he or she is the agent.

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.270
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, F. & cert. ef. 9-30-08

462-150-0010

Workouts; Exercise; Schooling

(1) An official workout must be under the supervision of the clocker. The galloping or ponying of horses for exercise, and unofficial schooling out of the gate, are not official workouts.

(2) Before anyone may give a horse an official workout, the trainer shall ensure that someone checks in with the clocker and properly identifies the horse. Mandatory schooling must be under the supervision of the appropriate racing official, who must keep a record of the results of the schooling. Official workouts must be timed and recorded. Official workouts may be accepted from other training tracks if the track and clocker are approved and licensed by the commission, and may be accepted from a race meet or licensed public training track in another state if reported by a licensed clocker of the other state to the licensed clocker in Oregon or reported in the Daily Racing Form, or other approved publications.

(3) For all official workouts, the person responsible for properly identifying the horse to the clocker is the horse's trainer.

(4) No devices other than authorized riding equipment may be used for any workout, and no horse shall be worked out while under the influence of a prohibited drug or an unauthorized quantity of an allowed drug. The stewards or commission veterinarian may require any horse to be tested for drugs after a workout.

(5)(a) A Thoroughbred horse that has never run in a recognized race must have a minimum of two official workouts within 30 days before being eligible to start in an official race. Any Thoroughbred horse that has not run in a recognized race in the 30 days prior to the race in which it is sought to be entered must have at least one official workout within the previous 30 days before being eligible to race in an official race.

(b) A Quarter Horse, Appaloosa, Paint, Arabian or mule that has never run in a recognized race must have a minimum of two official workouts within 45 days before being eligible to start in an official race. Any Quarter

Horse, Appaloosa, Paint, Arabian or mule that has not run in a recognized race in the 45 days prior to the race in which it is sought to be entered must have at least one official work within the previous 45 days before being eligible to start in an official race. The first time a horse or mule races around a turn it must have not less than 1 work around the turn within the past 45 days.

(6) No horse may be worked out during pari-mutuel racing hours without prior permission from the paddock judge and the stewards.

(7) Before accepting the entry of any horse, the stewards may require the horse to have additional official workouts. Also the stewards or the commission veterinarian may, for good cause, order a horse to be worked at a specific distance and effort.

(8) No workout other than an official workout which has been recorded by a licensed clocker shall be submitted for publication in the Daily Racing Form, Equibase or other approved publications.

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.270
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, F. & cert. ef. 9-30-08

462-150-0030

Claiming Rules

(1) The primary purpose of claiming races is the classification of horses. No person shall enter or allow to be entered in a claiming race a horse against which any mortgage, bill of sale or lien of any kind is held, unless the written consent of the mortgagor, the holder of the bill of sale or the lien claimant has been filed with the racing secretary.

(2) In claiming races, any horse is subject to claim for the entered price by any owner licensed by the commission and in good standing who has at least one eligible horse registered with the racing secretary of a race meet in Oregon, or by any licensed owner with a valid claim certificate. Any other person who wishes to claim a horse must complete a prospective horse owner's application form, and the completed form must be approved by the board of stewards or the commission. After the board of stewards or the commission has approved the prospective horse owner's application a claim certificate may be issued. A claim certificate shall become void on the date of a successful claim.

(3) A claim may be made by an authorized agent, but only for the account of those for whom he or she is licensed as an authorized agent by the commission. A trainer's license is not an authorized agents license.

(4) No person shall claim or cause to be claimed, directly or indirectly, a horse in which the person has an ownership interest.

(5) A person may claim more than one horse from any one race. An authorized agent may submit claims for more than one owner in any one race, but may not submit more than one claim for any one horse. When a trainer's stable consists of more than one owner, each owner may submit a claim in any one race, but no two or more shall submit a claim for any one horse or all such claims shall be void. No person will be eligible to claim another owner's horse from his/her own trainer's stable. "Person" includes any corporation, partnership, stable name or other legal entity.

(6) The claiming price of each horse in a claiming race shall be printed on the official program, and all claims shall be for the designated amount. However, if there is a printer's error in the official program, the claiming price designated on the official entry form shall govern. Submission of a claim in excess of the official claiming price shall not void the claim.

(7) All claims shall be made in writing by the prospective owner or authorized agent on forms and in the envelopes furnished by the race meet licensee and approved by the commission. Forms and envelopes must be filled out completely and must accurately identify the claim, and be properly signed. If two or more owners are claiming the horse together as Owner #1 "and" Owner #2 "and" Owner #3, all owners must sign the claim form otherwise, the claim will be void. If two or more owners are claiming the horse together as Owner #1 "or" Owner #2 "or" Owner #3, any one or all of the owners may sign the claim form.

(8) All claim forms shall be deposited in the claiming box at least 15 minutes before the established post time of each race. After the claim is deposited the claimant shall have no access to the claim form or the envelope.

(9) No money or its equivalent shall be put in the claiming box. For a claim to be valid, the claimant must have a credit balance of not less than the amount of the claim in the claimant's account with the race meet licensee's paymaster of purses.

(10) Claims are irrevocable unless fraud or deception is involved. The claimant former owner and/or authorized agent shall have 48 hours from the start of the race from which the horse was claimed to file a protest.

(11) Title to a claimed horse shall be vested in the successful claimant from the time the horse is determined to be a starter by the board of stewards. The successful claimant shall then become the owner of the horse whether the horse is alive or dead, sound or unsound or is injured during or after the race.

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(12) A claimed horse shall run in the interest and for the account of the owner from whom it is claimed.

(13) Claims which are not in keeping with these rules shall be void. The stewards may at any time require any person filing a claim to attest in writing that the person is claiming in accordance with these rules. The stewards shall be the judges of the validity of all claims.

(14) A claim shall represent a bona fide offer by the claimant to buy at the claiming price. Claiming owners are bound by claims made by their authorized agent. By entering a horse in a claiming race, all owners agree to sell at the designated claiming price if the stewards determine there is a valid claim.

(15) Any horse that has been claimed shall, after the race has been run, be taken to the test barn by the prior owner or their representative for delivery to the claimant or representative. The claimant or representative shall accompany the claimed horse to the test barn, however, the care and custody of the horse shall be the responsibility of the original owner or representative until the post race samples have been taken. Written authorization for the claim must be signed by a steward, the clerk of scales, or claims clerk and delivered to the original owner or representative.

(16) No person shall refuse to deliver to a valid claimant a horse claimed out of a claiming race. A horse that has been validly claimed shall be disqualified until delivery is made to the claimant.

(17) If more than one valid claim is filed for the same horse, the title to the horse shall be determined by lot in the paddock under the supervision of one or more of the stewards or claims clerk.

(18) No horse claimed in a claiming race shall be sold or have ownership in said horse transferred, wholly or in part, to anyone within 30 days after the date it was claimed, except in another claiming race.

(19) No claimed horse shall remain in or return to the same trainer's stable or under the care or management of the owner or trainer from whom the horse was claimed for the 30 days.

(20) In claiming races, engagements follow the horse unless the conditions of the race specifically state to the contrary.

(21) No person shall offer or enter into an agreement to claim or not to claim or attempt to prevent another person from claiming, any horse in a claiming race. No person shall attempt to prevent anyone from running a horse in any claiming race. No owner or trainer shall make any agreement with another owner or trainer or jockey for the protection of each other's horses in a claiming race, or refuse to race to prevent a claim.

(22) Should any stable name be eliminated by sale or removal from the racecourse, the right to claim is void without a valid claim certificate. When a stable name has been eliminated by claiming, the affected owner shall have the right to claim during the next 30 calendar days at the same continuous race meet in this state, even though all or a portion of the next 30 calendar days may take place in the following year.

(23) No official or employee of a race meet licensee shall give any information as to the filing of claims until after the race has been run.

(24) When a claimed horse goes to the test barn, a representative of both the former owner and the new owner shall accompany the horse to the test barn. The claiming of any horse in a race shall not diminish or limit the liability or responsibility of the former owner and trainer for compliance with the statutes and rules of horse racing as to the claimed horse.

(25) The foal certificate of a claimed horse must remain in the custody of the racing secretary until the new owner removes the horse from the racecourse. No registration papers on a claimed horse may be removed from the racing secretary's office for 48 hours after the race.

(26) No person shall enter a mare in any claiming race when the mare is pregnant, unless prior to the time of entry the owner shall have deposited with the racing secretary a signed agreement whereby the owner, at the time of entry, shall provide to the successful claimant without cost, protest or fee of any kind, a valid stallion service certificate covering the breeding of the mare. A successful claimant of a mare in a claiming race may file with the commission a petition for rescission of the claim within forty-five (45) days exclusive of the day of claim if the claimant finds that the claimed mare is pregnant and the agreement to provide a stallion service certificate has not been deposited as required by this section.

(27) If, in a claiming race, a horse is scratched after scratch time or is declared a non-starter, any claim or claims for the horse will be void. The stewards may require the horse to run back at the same price in the horse's next start.

(28) Notwithstanding any designation of sex or age appearing in the racing program or in any racing publication, the claimant of a horse shall be solely responsible for the determination of the sex or age of any horse claimed.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, F. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-150-0040

Entering for Official Racing; Coupling; Subscriptions

(1) Before a horse is eligible to race, it must be properly entered into that race by the horse's licensed owner (unless the horse is leased), lessee, trainer or authorized agent, unless authorized by the stewards for good cause. Telephone entries will be accepted if the person entering the horse is properly identified.

(2) No alteration shall be made in any entry after close of entries, but an error may be corrected. Any correction of an entry must be approved by a steward.

(3) No horse may be entered for more than one race on a single day.

(4) No trainer may enter or start more than two horses in a purse race or overnight race, but may enter more than two horses in a stakes race or high weighted race. Provided, however, in a divided overnight race, a trainer may enter 2 horses in each division. When making a double entry under the same ownership or if the trainer has an ownership interest in either horse, the owner or trainer must express a preference. When a preference system is used, two horses under the same ownership may not start to the exclusion of a single entry except in the case of an "In Today Horse" or a maiden in a winner's race.

(5) Entries shall be closed at an advertised time, and no entry will be accepted after that time. The racing secretary may postpone the closing of entries for overnight races. If there is an error in carding a race before entries are drawn, the race may be canceled or opened for more entries.

(6) A jockey must be named by the owner or trainer at the time of the entry. At the draw, if a jockey has been named on more than one horse, a preference call must be declared at that time. If the jockey originally named to ride a horse is not available due to the preference call at the draw, the owner or trainer must name another rider, at the draw or prior to scratch time, if such scratch time is provided; otherwise, the stewards may name a rider and that person shall ride the horse.

(7) No horse may be entered to start unless:

(a) It has been properly registered with the appropriate horse registry. If a horse's name is changed, its new name must be registered with the appropriate horse registry and both its old and new names must be given in every entry list until it has run three races. Both names must be printed on the official program for those three races.

(b) The foal certificate is on file in the office of the racing secretary. The stewards may waive this requirement for horses shipped in from a race track recognized by the Daily Racing Form if the horse is properly identified. However if waived, the foal certificate must be on file with the racing secretary one hour prior to first post of the day, if a photocopy or a facsimile copy of the foal certificate and any epistaxis certificate is on file with the racing secretary by scratch time. In stakes races only, a horse shall be allowed to start without the foal certificate on file, provided that a photocopy or facsimile copy of the foal certificate is on file with the racing secretary, which copy has been forwarded from the race office of a recognized race track which has the original foal certificate on file. The copy of the foal certificate must show the true ownership of the horse.

(c) All ownerships in the horse, except a trainer's percentage of its winnings, are on file with the racing secretary. All changes in ownership after initial entry must be filed with the racing secretary before a horse may start.

(d) It is clearly identified on the entry form by its age, name, color, sex, and names of its sire and dam. If its dam was covered by more than one stallion, the names of all of them must be given in order of service.

(e) It has been clearly tattooed on the upper lip. The stewards may waive this requirement if the horse has been identified by the tattoo technician, and arrangements have been made to tattoo the horse prior to the race. Tattooing must be done by a person authorized to identify the horse by the appropriate horse registry.

(f) It has been fully identified from its papers, and is entered in the name of its true owner(s).

(g) It is in the care of a trainer licensed in Oregon.

(h) It has had the required number of official races and/or workouts, including working from the gate and first time starters being gate approved. The stewards may require additional official workouts if they believe they are necessary to enable the public to make a reasonable assessment of the horse's capabilities, or to ensure that the horse will perform satisfactorily.

(i) It meets the conditions of the race.

(j) It is in sound racing condition.

(k) If leased, a copy of the lease shall be filed, on a prescribed form, with the commission, lessee, lessor, horseman's bookkeeper, Stewards and a copy attached to the foal certificate.

(8) A horse is ineligible to be entered or to start if:

(a) Any of its recent workouts have not been recorded by the clocker, including the correct time.

(b) It is on the stewards' list, veterinarian's list, bleeder's list, starter's list, or paddock judge's list.

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(c) Any owner or trainer of the horse has been ruled off the racecourse or is under suspension by the commission, unless the horse is transferred, sold, or its lease agreements abandoned, with approval of the stewards. If a trainer is suspended, any horse owned or trained by the suspended person will be ineligible during the period of the suspension if the horse is transferred to that person's spouse or a person living at the same residence.

(d) The horse has been placed on the veterinarian's list, or bleeder's list, and has not been removed from the list by a commission veterinarian. The commission veterinarian may require saliva, urine, or blood samples, and may require a satisfactory workout, before giving approval.

(e) It has been blocked, nerved or otherwise drugged to desensitize any nerves except in the case of heel nerved, (posterior digital neurectomy) below the fetlock, in only one leg and on approval of a commission veterinarian.

(9) Entrance Fees and Subscriptions:

(a) The entrance to a race shall be free, unless otherwise stipulated in the conditions of the race. If the conditions required an entrance fee, the fee must accompany the entry, unless waived by the race meet licensee. Payment of entry fees shall be in cash, certified check, or money order.

(b) Entrance and nomination fees may not be refunded, even if the horse dies, is scratched, or fails to start. Entrance fees shall be refunded if the horse is prevented from starting the race through failure of the starting gate to open or if the gate in front of the horse opened late, and the stewards declare the horse to be a non-starter.

(c) Nomination to or entry of a horse in a stakes race cannot be withdrawn after the close of entries. Any subscriber to a stakes race may transfer or withdraw the subscription prior to closing. Joint subscriptions and entries may be made by any one of the joint owners of a horse, and each owner shall be jointly and severally liable for all payments due. Death of a horse, or a mistake in its entry when the horse is eligible, does not release the subscriber or transferee from liability for all stakes due. Death of the original subscriber or nominator to a stakes race shall not render void any subscription, entry or right of entry. All rights, privileges, and obligations shall attach to the successor owner, including the legal representatives of the decedent. When a horse is sold or claimed, stake engagements for the horse shall be transferred automatically with the horse to its new owner, except that if the horse is transferred to a person whose license is suspended or who is otherwise ineligible to race or enter the horse, then the subscription shall be void as of the date of the transfer notwithstanding OAR 462-150-0030(25).

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-150-0050

Forming the Race; Weights, Penalties, and Allowances; Scratches

(1) The racing secretary, in conjunction with the race meet licensee, shall set the conditions of all races. For each racing day, the racing secretary shall use every reasonable effort to card the number of Thoroughbred, Quarter Horse, Appaloosa, Paint, Arabian, and mule races listed in the license application and approved by the commission. Also, for each racing day the racing secretary shall card one race which is limited to Oregon-bred Thoroughbred horses. If there are not enough available horses of that class on any day, the race may be replaced with the approval of the stewards. If the race is reopened to allow other horses to enter, preference at the draw shall be given to the Oregon-bred Thoroughbred horses, including preference extending to an Oregon-bred maiden over a non Oregon-bred winner. If feasible, an Oregon-bred Thoroughbred race which does not fill shall be carried over to a subsequent day's racing program. The stewards shall report to the commission the reasons for the cancellation of an Oregon-bred Thoroughbred race.

(2) After entries have closed, the racing secretary shall compile a list of the entries without delay and post the list in a conspicuous place.

(3) In determining the number of horses that can be drawn into a race the width of the track shall be at least the total of 10 feet for the first horse plus 5 feet for each additional horse.

(4) If the number of entries in any race exceeds the number of horses that will be allowed to start, the starters for the race shall be determined by lot when not determined by an advertised preference system. Persons who made the entry shall be given an opportunity to attend the drawing for starting positions. Post positions shall be determined by lot. A steward or designated representative shall be present at the draw.

(5) If the number of entries in any one race is sufficient to reasonably assure that two separate races will fill from those entries, the racing secretary may divide the race. If an overnight race is divided and a trainer has entered two horses in the race, the horses will be placed in separate divisions of the race for the draw. They will be drawn in the separate divisions of the race with both horses retaining their preferences.

(6) If any race is canceled because of insufficient entries, the racing secretary may divide an overnight race. The overnight race is subject to the

same conditions, with entries in each race drawn by lot when not determined by an advertised preference system. In cases where a trainer has entered two or more horses in a divided race, those races will be handled as outlined in OAR 462-150-0050(5).

(7) When a scratch time is provided, a list of horses not to exceed four may be drawn from the overflow entries and listed as eligible to start if any horse which was originally carded is scratched. When an originally carded horse is scratched, horses from the "Also Eligible" list shall fill the race in the order in which they were originally drawn. The owner or trainer of any horse on the "Also Eligible" list which is drawn into a race must notify the racing secretary not later than scratch time if he or she does not intend the horse to start. Any "Also Eligible" horse which does not start when drawn into a race shall forfeit all preferences.

(8) In all races, horses which fill a race from the "Also Eligible" list shall take the outside post positions in the order that they are drawn from the original draw. In all races run on the straight-away, except Thoroughbred races, an "Also Eligible" horse shall take the post position of the horse which was scratched.

(9) Unless a preference system is used, the racing secretary shall keep a list of all horses excluded from races because of too many entries, and those horses shall have preference in the next race in accordance with a system established by the racing secretary. This list shall be known as the "Preferred List".

(10) When a horse on the "Preferred List" is entered in a subsequent race, a claim of preference must be made at the time of entry and noted on the entry form, or the preference will be lost and the horse will be removed from the list.

(11) If a race overfills, any "In Today Horse" which has been entered shall be given no preference. A horse on the "Also Eligible" list shall not be considered an "In Today Horse" until it has actually been given a position in a race.

(12) In all races that have filled over the number of starters and "Also Eligible", an "In Today Horse" shall receive no future preference if it is drawn in as an "Also Eligible". A maiden horse shall have preference over an "In Today Horse" but not over the second choice of an entry to the exclusion of a winner. The second choice of an entry or an "In Today Horse" on the race's "Also Eligible" list shall have no preference over any other "Also Eligible" horses. A horse on the "Also Eligible" list that is scratched will receive no preference, regardless of any scratches in the race itself. This horse shall not be considered an "In Today Horse".

(13) If through error an "In Today Horse" or a horse lacking preference is drawn into a race that has overfilled, the horse shall be scratched if the error is discovered before scratch time, enabling another horse to be drawn into the race. No horse having started any race shall be deemed ineligible because of the error.

(14) In high weighted races, high weights will have preference to the draw. In all races determined by time trials, the fastest times shall have preference to the draw.

(15) No race which has closed shall be canceled except by the stewards.

(16) Weights, Penalties, and Allowances:

(a) Fillies two years old shall have an allowance of three pounds, except in handicaps and races where the conditions expressly state to the contrary. Fillies and mares three years old and older shall have an allowance of five pounds between January 1 and August 31, and three pounds between September 1 and December 31.

(b) To be eligible for weight allowances they must be claimed at the entry. Except sex allowances, which are mandatory, all other allowances are optional. Failure to claim any allowance, except for sex allowance, is not a cause for disqualification. No sex allowances will be given in straight-away races.

(c) A horse shall start with only the allowance to which it is entitled at the time of starting, regardless of its allowance at the time of entry. Horses incurring penalties for a race shall not be entitled to any of the weight allowances for that race. Penalties are mandatory.

(d) Horses not entitled to the first allowance in a race shall not be entitled to the second, and so on. Penalties and allowances are not cumulative unless specified in the conditions of the race.

(e) No horse shall incur a weight penalty for a placement from which it is disqualified, but a horse winning through a disqualification of another horse shall incur the weight penalties of that placement. No placement of a horse moved up shall make that horse ineligible for a race which has already been run.

(f) The racing secretary shall append to the weight for every handicap, the hour and day in which winners will be liable to a penalty. No alteration shall be made after publication except for erroneous omissions of the name or weight of a horse duly entered. In that case, the racing secretary may correct the omission with permission of the stewards.

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(g) In all overnight races of four (4) furlongs or over, except handicaps, apprentice jockey weight allowances may be claimed per OAR 462-140-0350(5).

(h) In all overnight races, except handicaps, the minimum weight, subject to sex and apprentice allowances, shall be 112 pounds for Thoroughbreds, 116 pounds for Quarter Horses, and for all other breeds of horses shall be as designated by the commission.

(i) The racing secretary shall publish in the condition book the criteria for eligibility for horses running at the meet.

(j) Winnings shall include all money won for first place finishes up to the time appointed for the start, shall apply to all races in any country, and shall include walkover or forfeit money. The value of any prize not of money or not paid in money shall not be included. Winnings during the year shall be computed from January 1 of that year. The earnings of a winning horse shall be computed on the value to the winner. The winner of certain sum shall mean the winner of single race of that value unless otherwise expressed in the conditions.

(k) The following rules shall apply to Quarter Horse, Appaloosa, Arabian and Paint racing:

(A) In straight-away races no weight allowances will be given for sex or apprentice jockeys, whereas in races run around a turn, the same allowances for sex which are granted in Thoroughbred races will be in effect.

(B) Horses which gain a position in a race from the "Also Eligible List" shall take the outside post positions in order that they are drawn from the "Also Eligibles", except in the case of races run on the straight-away, in which case, the "Also Eligible" shall take the post position of the horse declared out or scratched.

(C) The respective breed's chart book shall be the official chart for each breed's horse racing.

(17) Scratches:

(a) Scratches from stakes races will close 60 minutes before post time for the first race. If a scratch time is provided, scratches from all other races must be made prior to the "scratch time" designated by the racing secretary. The field may be scratched down to the number as stated in the condition book by the racing secretary. If the field has already been scratched down to the minimum number, the scratch will not be allowed except for medical reasons verified by the commission veterinarian, or as approved by the stewards. If more than one horse is competing for the last available non-medical scratch, the right to scratch shall be determined by lot. "Also Eligibles" shall have the same scratch privileges as regularly carded horses.

(b) If any of a horse's owners is not properly licensed it shall be scratched by the board of stewards 15 minutes prior to post of the race.

(c) No horse may be scratched until the owner, trainer, or authorized agent has notified the racing secretary in writing prior to scratch time, except for medical reasons discovered after scratch time and approved by the commission veterinarian. If a horse is stabled off the racecourse a valid request to scratch the horse may be accepted from the trainer by telephone if the trainer provides his or her Oregon Racing Commission license number for identification purposes. A scratch made by telephone must be confirmed in writing if required by the stewards. If the scratch is for medical or physical reasons, the trainer must submit a letter from a licensed veterinarian within 72 hours explaining the reason and necessity for the scratch.

(d) The stewards may scratch any horse from a race when it appears that there has been a violation of the rules of horse racing. Any racing official who has knowledge of a violation must report it immediately to the stewards.

(e) The commission veterinarian may scratch a horse at any time for reasons as per OAR 462-140-0070(4).

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, F. & cert. ef. 9-30-08

462-150-0060

Weighing Out; Equipment; Paddock Procedures

(1) All jockeys in a race must be weighed out by the clerk of scales prior to going to the paddock for that race.

(2) If overweight is in excess of the weight the horse is to carry, the jockey shall declare the amount of overweight to the clerk of scales at least one hour before post time of the first race of the day, and the clerk of scales shall have the overweight announced immediately.

(3) Seven pounds is the maximum overweight any horse may carry unless waived by the board of stewards.

(4) A jockey's weight shall include the running equipment for the mount, including saddle with attachments and clothing, but shall not include the whip, helmet, safety vest or the horse's bridle.

(5) The trainer shall be responsible for the weight assigned to be carried by the horse. If the jockey scheduled to ride the horse is more than two pounds overweight, the jockey may be replaced by the owner or trainer

without any liability for a mount fee to the overweight jockey if replaced with a rider of less weight.

(6) No jockey shall be weighed out for any race unless the jockey's fee for a losing mount in the race has been deposited or guaranteed to the paymaster of purses. Failure to deposit or guarantee the fee for the engaged jockey may result in an involuntary scratch of the horse the jockey was to ride.

(7) The only attendants who will be permitted to assist jockeys in weighing out are licensed valets.

(8) Equipment:

(a) Each jockey in a race shall carry a whip as part of his or her equipment. The board of stewards may, for good cause, grant permission not to carry and use a whip. Whips and blinkers may be used on two-year-olds and all other first time starters if schooled before the starter with that equipment and approved by the starter before the time of entry.

(b) No whip shall exceed one pound in weight or 30 inches in length, including the popper. The popper shall be fixed to the end of the whip and shall consist of a looped leather not less than 1-1/4 inches in width, and not over 3 inches in length.

(c) Permission to use or discontinue the use of a tongue restraint must be obtained from the paddock judge. Material to be used as a tongue restraint may not be furnished by anyone other than the trainer of the horse. Only the trainer or assistant trainer shall be permitted to tie the tongue or replace or repair a tongue restraint, except at the starting gate under the supervision of the commission veterinarian.

(d) Any change in equipment from that which a horse carried in its previous race must be approved by the paddock judge. Any change shall be announced or posted for public information. "Rounddowns" are not considered to be equipment. All bandages in excess of 6 inches in length shall be considered part of the horse's equipment. Permission for a horse to add blinkers, screens, or goggles to his equipment or discontinue the use of them must be made prior to entry with approval from the starter and noted on the entry form.

(e) The Cornell Collar®, a throat support device which research indicates can assist those horses believed to suffer intermittent displacement of the soft palate during running, may be used in horse racing subject to the following conditions:

(A) Prior to a horse racing with the Cornell Collar®, the trainer must submit to the Stewards and Commission Veterinarian a letter from an ORC licensed veterinarian who has performed an endoscopic throat examination of that horse, certifying that the use of the Cornell Collar® is justified and appropriate;

(B) The trainer, in consultation with an ORC licensed veterinarian, shall become educated and proficient in the appropriate use and placement of the throat support device and shall be responsible for the proper placement of the Cornell Collar®;

(C) The horse must have one official work in the presence of the Commission Veterinarian with the Cornell Collar® properly in place, prior to entering a race with the device;

(D) An appropriate equipment change must be declared at the time of entry for the first use of the Cornell Collar® device on a horse;

(E) Once a horse uses the Cornell Collar®; the use of the device must be continued in each subsequent race unless the trainer submits a letter from a licensed veterinarian to the stewards stating that the collar is no longer appropriate for the horse;

(F) Only the original Vet-Aire™ Cornell Collar® is approved for use;

(G) The Commission Veterinarian and/or the Paddock Judge may check for proper placement of the Cornell Collar® in the paddock and/or post parade; and

(H) Notification to the public disclosing that a horse is racing with the use of a Cornell Collar®.

(f) Every horse in a race shall have a head number which shall be attached in the junction of the brow band, and the head piece of the bridle, unless waived by the stewards for good cause. This number shall correspond to the saddle cloth number of the horse as shown on the program.

(g) Racing silks and caps shall be the following color, unless a change is approved by the stewards:

(A) No. 1 — Red with White;

(B) No. 1A — Red with White Bands;

(C) No. 2 — White with Black;

(D) No. 2B — White with Black Bands;

(E) No. 3 — Blue with White;

(F) No. 4 — Yellow with Black;

(G) No. 5 — Green with White;

(H) No. 6 — Black with Yellow;

(I) No. 7 — Orange with Black;

(J) No. 8 — Pink with Black;

(K) No. 9 — Turquoise with Black;

(L) No. 10 — Purple with White;

(M) No. 11 — Gray with Red Stripes;

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(N) No. 12 — Lime with Black.

(h) All jockeys must wear white color pants in any race on which pari-mutuel wagering is conducted.

(i) Racing plates must be of a type and design approved by the board of stewards and the commission veterinarian.

(j) No training devices, such as iron halters, shall be used to approve a horse from the gate, to be schooled from the Starter's List, to get removed from the Paddock List, to work for time, to be removed from the Stewards' List or used during the running of a race.

(9) Paddock: Horses must be in the paddock at least 15 minutes before scheduled post time unless otherwise authorized by the stewards. Every horse must be saddled in the paddock by, or supervised by, the horse's trainer or assistant trainer as shown in the program unless expressly authorized by the stewards, in which case a licensed trainer or assistant trainer approved by the stewards may saddle the horse.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-150-0070

Post Parade; Start; Race

(1) All horses shall parade from paddock to post carrying their respective weights and, to the extent feasible, shall pass the stewards' stand in numerical order. Any horse failing to do so without good cause may be disqualified by the stewards. After passing the stand once, horses may break formation and canter, warm up, or go as they please to the post.

(2) Jockeys shall remain on their mounts whenever reasonably possible. In case of an emergency, the stewards or the starter may permit all jockeys to dismount and all horses to be attended during the delay.

(3) The post parade shall last no more than 12 minutes, unless approved by the stewards. When the horses have reached the post, they shall be started without unnecessary delay.

(4) A jockey shall exert every effort to ride his/her horse to the finish in the best and fastest run of which the horse is capable. No jockey shall ease up or coast to a finish, without adequate cause, even if the horse has no apparent chance to win prize money.

(5) In a straight-away race, every horse must maintain position as nearly as possible in the lane in which it starts. Every horse in the race is entitled to racing room. A horse which drifts out of its lane or lugs in or out, and interferes with, or impedes another horse in a manner which, in the opinion of the board of stewards, could have affected the outcome of the race, may be disqualified by the stewards.

(6) In a race run around a turn, a horse that is in the clear may be taken to any part of the track. However, a horse which weaves back and forth in front of another horse and/or drifts out of its lane, lugs in or out, and interferes with or impedes another horse in a manner which, in the opinion of the board of stewards, could have affected the outcome of the race, may be disqualified by the stewards.

(7) Jockeys shall not ride their mount in such a manner as to deliberately pocket another horse.

(8) Jockeys in a straight-away race shall make every effort to prevent their horse from drifting out of its lane.

(9) Jockeys shall make every effort to prevent their horse from lugging in or out in a manner which interferes with another horse.

(10) Jockeys shall make every effort to prevent their horse from weaving back and forth in front of another horse.

(11) Jockeys shall not ride in such a manner as to endanger another horse or jockey.

(12) Jockeys must be in full control of their horse before applying the whip. No jockey shall use the whip more than is reasonably necessary under the circumstances, or ever strike a horse on the head. In all races where a jockey will not ride with a whip an announcement shall be made over the public address system of such fact. No jockey carrying a whip during a race shall fail to use the whip in a manner consistent with using his/her best efforts to win. Jockeys are prohibited from whipping a horse upon the head, or during the post parade except when necessary to control the horse, or excessively or brutally.

(13) No jockey shall willfully strike or touch another jockey or another jockey's horse or equipment. No jockey shall interfere with, impede, or endanger another horse or jockey.

(14) Jockeys shall not unnecessarily cause or allow their horse to shorten its stride. Jockeys shall ride out their horse in every race.

(15) If a horse leaves the designated racing surface after leaving the paddock and prior to the finish of the race, it may be scratched or disqualified.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, F. & cert. ef. 9-30-08

462-150-0080

Order of Finish; Weighing In; Objections and Disqualification

(1) The winner of a race shall be the horse whose nose first reaches the finish line with the jockey aboard, unless the horse is disqualified by the stewards for ineligibility or other good cause. The decision of the board of stewards as to the order of finish shall be final.

(2) When two or more horses reach the finish line at the same time, or the photofinish photographs do not clearly establish which of the horses reached the finish line first, the stewards may declare a dead heat. When horses run a dead heat, all money and prizes to which the horses would have been entitled if it were not a dead heat shall be divided equally among them. When a dead heat is for first place, each horse finishing first in the dead heat shall be deemed a winner, and shall be liable as a winner for any penalty which attaches to the winning of the race, but only in the amount of winnings actually received.

(3) If the dividing owners cannot agree as to which of them is to have a cup or other prize which cannot be divided, the question shall be determined by lot in the presence of one or more of the stewards.

(4) The time recorded for the first horse to cross the finish line with the jockey aboard shall be the official time of the race.

(5) If there is a mechanical failure of the gate, and horses are allowed leave at irregular intervals instead of all horses leaving at one time, the stewards shall decide whether the race is official or whether to declare "no race", and which horses, if any, will be deemed non-starters. In the event of a mechanical failure, interference during the running of the race which affects the majority of the horses in such race, or any other unusual circumstance or situation that the stewards determine resulted in an unfair race for the majority of the horses in the race, the stewards may declare the race as "no race". When in the opinion of the stewards a race cannot be commenced before midnight or cannot be conducted in accordance with the rules and regulations of the commission, they shall cancel and call off such race. Any wagers on such races called off, canceled or declared as "no race" shall be refunded, and no purse, prize or stakes shall be awarded. A race shall be canceled if no horse finishes the race.

(6) Weighing In, Unsaddling:

(a) Weigh In. Upon completion of a race each jockey shall ride promptly to the winners circle and dismount. He/she shall then present himself/herself to the clerk of scales to be weighed in. If a jockey is prevented from riding his/her mount to the winner's circle because of accident or illness either to himself/herself or his/her horse he/she may walk or be carried to the scales unless excused by the stewards.

(b) Unsaddling. Each jockey upon completion of a race must return to the winners circle and must unsaddle his/her own horse, unless excused by the stewards.

(c) Removing Horse's Equipment. No person except the valet-attendant for each mount is permitted to assist the jockey in removing the horse's equipment that is included in the jockey's weight, unless the stewards permit otherwise. To weigh in each jockey shall carry to the scales all pieces of equipment with which he/she weighed out. Thereafter he/she may hand the equipment to the valet-attendant.

(d) Under Weight. When any horse places first, second, third or fourth in a race, and thereafter the horse's jockey is weighed in short by more than two pounds of the weight of which he/she was weighed out, his/her mount may be disqualified and all purse monies forfeited.

(e) Over Weight. No jockey may be weighed in more than two pounds over his/her declared weight but consideration shall be given for excess weight caused by rain or mud.

(f) If a jockey does not present himself or herself to be weighed in, is guilty of any fraudulent practice with respect to weight or weighing, or if unless the jockey or horse is ill, injured, or disabled, the jockey dismounts before reaching the scales or dismounts without permission, or if the jockey touches (except accidentally) any person or thing other than the jockey's own equipment before weighing, the clerk of scales shall report it to the stewards, and the stewards may disqualify the horse and place it last, and the jockey and any other licensee involved may be fined or suspended.

(7) Objections, Inquiries and Disqualification's:

(a) Objections which can be made prior to a race must be made to the stewards in writing, must be signed by the objector, and must be filed with the stewards prior to post time. No objection based upon the distance of a race shall be made after the start of the race.

(b) Objections based upon an occurrence during the running of a race must be made before the order of finish has been declared "official". Objections as to what occurs in a race with respect to the performance of a horse or jockey must be made by the owner, trainer, or jockey of the horse which is aggrieved. However, the stewards may take any appropriate action even if no formal objection is made.

(c) Permission of the stewards is necessary before an objection may be withdrawn.

(d) The stewards may disqualify any horse which is the subject of fraudulent or corrupt practices, or any horse whose jockey has committed a

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violation of the rules of horse racing. A horse which interferes with, impedes or intimidates another horse may be disqualified by the stewards unless the impeded horse or jockey was partly at fault or the interference was wholly caused by some other horse or jockey.

(e) If a horse which has won or been placed in a race is disqualified after a valid objection or otherwise, the stewards shall declare a new order of finish as, in their sole discretion, they deem just.

(f) The stewards must decide every objection properly filed which pertains to a race. In cases of fraud or willful deception, the time limitations for filing objections shall not apply. Appeals to the commission from a decision on an objection/inquiry must be filed in writing within 72 hours after the race is run in accordance with OAR 462-130-050.

(g) If a horse is disqualified, any other horse in the race owned wholly or in part by the same interest or trained by the same trainer may also be disqualified.

(h) Pending a decision on an objection/inquiry, any prize which the horse subject to the objection/inquiry may have won, and any money held by the race meet licensee as the price of a horse claimed in the race (if involved in the determination of the objection/inquiry) shall be withheld until the objection/inquiry is determined.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, F. & cert. ef. 9-30-08

462-150-0090

Purses; Claims Against Horse; Jockey Fees

(1) All stakes fees paid toward a stakes race shall be allocated to the winner unless otherwise provided by the conditions for the race.

(2) Whenever the board of stewards has reasonable grounds to believe that any violation of the statutes or rules of racing has occurred, it may order that a purse not be released. Otherwise, all portions of purse money shall be made available to the winners promptly following the release of purses by a designated representative of the commission.

(3) If a horse raced while it was not eligible, the board of stewards may order forfeiture of any person's share of an undistributed purse.

(4) No percentage of a purse may be deducted by the race meet licensee for itself or another person except as provided by law or by written agreement with the person to whom such winnings are payable.

(5) Jockey Fees:

(a) In the event an owner or trainer elects to remove a jockey from his/her mount at a reasonable time designated by the stewards after the draw, the stewards may require a double 'jock mount' to be paid. The fee to be paid for the double jock mount may be equal to that earned by the jockey who rode the horse or a losing fee to be determined by the stewards.

(b) A jockey's fees shall be considered earned from the time the jockey weighs out for that race. The fee shall not be considered earned if the jockey voluntarily does not finish the race, except where injury to the horse or rider is involved.

(c) All jockey fees shall be deposited in advance of the races for that day, unless guaranteed by the race meet licensee.

(d) Jockeys involved in a dead heat shall divide equally the sum total of the fees which they would have received individually had one beaten the other or others. The owners of the horses involved shall pay equal shares of the jockeys' fees.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-150-0100

Use and Distribution of Breakage Monies

(1) Each race meet licensee conducting a race meet shall maintain a separate account in which each horsemen's association's share of the breakage shall be placed. The breakage shall be accumulated on a weekly basis, Monday through Sunday. The account shall be subject to audit by the commission. The race meet licensee, except small fair race meet licensees, shall make a weekly report as to all such breakage money calculated, received, deposited, and paid. Small fair race meet licensees shall remit the breakage to the appropriate horsemen's associations upon notification from the commission.

(2) Oregon-bred Thoroughbreds shall share in the breakage money resulting from breakage derived from Thoroughbred races and similarly the other breeds shall share in the money derived from the breakage of their respective races. The race meet licensee shall remit to each Oregon association of horsemen, recognized by the commission as representing that breed of horse, their proportionate share of any breakage monies accumulated during the meet, seven (7) days following the end of each weekly period.

(3) All expenditures of monies derived from breakage are subject to prior approval of the commission. Each recognized horsemen's association

shall submit a schedule of such expenditures annually to the commission for its approval.

(4) For computation of breakage distribution from received interstate wagering, see OAR 462-200-0440.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.140

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-150-0110

Use and Distribution of Purse Supplements for Owners of Oregon-Bred Horses

(1) A race meet licensee designated in subsection (2) of ORS 462.057 shall maintain and deposit in a separate account from all other funds the Oregon-bred purse supplements authorized by ORS 462.057(1)(c)(B)(C)(D). A race meet licensee subject to ORS 462.062 shall maintain and deposit in a separate account from all other funds three-quarters of one percent of the gross mutuel wagering on all races for purse supplements to owners of Oregon-bred horses. The race meet licensee shall accumulate the Oregon-bred purse supplement monies on a weekly basis Monday through Sunday. These accounts shall be subject to audit by the commission. No disbursements shall be made from these accounts except as provided in subsection (2).

(2) Each breed shall share in the Oregon-bred purse supplements derived from that breed's races only. The race meet licensee shall remit to the accounts of the appropriate breeders organizations (or division of the organization) their proportionate share of any Oregon-bred purse supplement monies within five (5) business days following the end of the weekly period in which they were accumulated. The accounts shall be subject to audit by the commission.

(3) Each Oregon breeders association shall distribute all Oregon-bred purse supplement monies to respective owners of the Oregon-bred horses within 75 days after the close of the race meet or continuous race meet. Subject to prior approval of the commission, each horsemen's association may use a portion of the Oregon-bred purse supplements for operating expenses. Any request for operating expenses from the Oregon-bred purse supplements must be approved by the commission prior to payment of the Oregon-bred purse supplements.

(4) Sections (1), (2), and (3) of this rule are applicable only at race meets or continuous race meets where the average daily gross mutuel wagering during the preceding fiscal year exceeded \$150,000.

Stat. Auth.: ORS 462.057

Stats. Implemented: ORS 462.057 & 462.130

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

462-160-0110

Veterinary Practices

(1) Veterinarians under Authority of Commission Veterinarians:

(a) Veterinarians licensed by the commission and practicing at any location under the jurisdiction of the commission are under the authority of commission veterinarians and the stewards:

(b) The commission veterinarian(s) shall recommend to the stewards or the commission the discipline that may be imposed upon a veterinarian who violates the rules.

(2) Treatment Restrictions:

(a) Except as otherwise provided by this subsection, no person other than a veterinarian licensed to practice veterinary medicine in this jurisdiction and licensed by the commission may administer, via injection, topical application, inhalant, per os or per rectum, a prescription or controlled medication, drug, chemical or other substance (including any medication, drug, chemical or other substance by injection) to a horse at any location under the jurisdiction of the commission;

(b) This subsection does not apply to the administration of the following substances except in approved quantitative levels, if any, present in post-race samples or as they may interfere with post-race testing:

(A) A recognized non-injectable nutritional supplement or other substance approved by a commission veterinarian;

(B) A non-injectable substance on the direction or by prescription of a licensed veterinarian; or

(C) A non-injectable non-prescription medication or substance.

(c) No person shall possess a hypodermic needle, syringe or injectable of any kind on association grounds, unless otherwise approved by the commission. At any location under the jurisdiction of the commission, veterinarians may use only one-time disposable needles, and shall dispose of them in a manner approved by the commission. If a person has a medical condition which makes it necessary to have a syringe at any location under the jurisdiction of the commission, that person may request permission of the stewards and/or the commission in writing, furnish a letter from a licensed physician explaining why it is necessary for the person to possess a syringe, and must comply with any conditions and restrictions set by the stewards and/or the commission;

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(d) Veterinarians shall not treat an entered horse within the 24 hours prior to the original post time in which the horse is entered except for the administration of furosemide under the guidelines set forth in OAR 462-160-0130(5) unless approved by a commission veterinarian and if so treated, that horse shall be scratched from racing on that day. (e) Any horse entered for racing must be present on the grounds 5-hours prior to the post time of the race they are entered in unless that horse is not entered to race with furosemide in which case that horse must be on the grounds no later than one hour prior to the post time of the race for which the horse is entered.

(3) Veterinarians' Reports:

(a) Every veterinarian who treats a racehorse at any location under the jurisdiction of the commission shall, in writing on the Medication Report Form prescribed by the commission, report to a commission veterinarian or other commission designee at the racetrack where the horse is entered to run or as otherwise specified by the commission, the name of the horse treated, any medication, drug, substance, or procedure administered or prescribed, the name of the trainer of the horse, the date and time of treatment and any other information requested by a commission veterinarian;

(b) The Medication Report Form shall be signed by the practicing veterinarian;

(c) The Medication Report Form must be filed by the treating veterinarian within 24-hours of any treatments in section (a) and not later than post time of the race for which the horse is entered. Any such report is confidential and its content shall not be disclosed except in the course of an investigation of a possible violation of these rules or in a proceeding before the stewards or the commission, or to the trainer or owner of record at the time of treatment;

(d) A timely and accurate filing of a Medication Report Form that is consistent with the analytical results of a positive test may be used as a mitigating factor in determining the nature and extent, if any, of a rules violation.

(4) Veterinary Licenses. Any veterinarian licensed by the Oregon Racing Commission to practice veterinary medicine on a racecourse shall be prohibited from concurrently holding any other license at any location under the jurisdiction of the commission unless otherwise approved by the board of stewards.

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

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270 & 462.415

Hist.: RC 2-2006(Temp), f. & cert. ef. 10-2-06 thru 3-21-07; RC 1-2007, f. 2-28-07, cert. ef. 3-7-07; RC 6-2007(Temp), f. & cert. ef. 11-28-07 thru 5-23-08; RC 1-2008, f. & cert. ef. 4-7-08; RC 2-2008, f. & cert. ef. 9-30-08

462-160-0120

Prohibited Practices

The following are considered prohibited practices:

(1) The possession or use of a drug, substance or medication on the premises of a facility under the jurisdiction of the commission for which a recognized analytical method has not been developed to detect and confirm the administration of such substance; or the use of which may endanger the health and welfare of the horse or endanger the safety of the rider; or the use of which may adversely affect the integrity of racing; or,

(2) The possession or use of a drug, substance, or medication on the premises of a facility under the jurisdiction of the commission that has not been approved by the United States Food and Drug Administration (FDA) for any use in (human or animal) is forbidden without prior permission of the commission or its designee.

(3) The possession and/or use of blood doping agents, including but not limited to those listed below, on the premises of a facility under the jurisdiction of the commission is forbidden:

- (a) Erythropoietin;
- (b) Darbepoetin;
- (c) Oxyglobin®; and
- (d) Hemopure®.

(4) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy shall not be permitted unless the following conditions are met:

(a) Any treated horse shall not be permitted to race for a minimum of 10 days following treatment;

(b) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines shall be limited to veterinarians licensed to practice by the commission;

(c) Any Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines on the association grounds must be registered with and approved by the commission or its designee before use; and

(d) All Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy treatments must be reported to a commission veterinarian on the prescribed form not later than the time prescribed by the commission veterinarians.

(5) The use of a nasogastric tube (a tube longer than six inches) for the administration of any substance within 24-hours prior to the original post time of the race in which the horse is entered is prohibited without the prior permission of a commission veterinarian.

(6) No medication may be taken into a stall where a horse is stabled unless it is intended for use on that horse. (7) An animal may not participate in any race if the animal has been administered any drug that is prohibited by the commission less than 24 hours before the original post time for the race in which the horse is entered.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270 & 462.415

Hist.: RC 2-2006(Temp), f. & cert. ef. 10-2-06 thru 3-21-07; RC 1-2007, f. 2-28-07, cert. ef. 3-7-07; RC 6-2007(Temp), f. & cert. ef. 11-28-07 thru 5-23-08; RC 1-2008, f. & cert. ef. 4-7-08; RC 2-2008, f. & cert. ef. 9-30-08

462-160-0130

Medications and Prohibited Substances

(1) No horse may be administered any substance, other than foods, by any route or method less than 24 hours before the original post time for the race in which the horse is entered except furosemide (by the manner described in these rules) unless approved by a commission veterinarian:

(a) Any licensee of the commission, including veterinarians, found to be responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth for the licensed trainer;

(b) The licensed trainer is responsible for notifying the licensed owner, veterinarian or any other licensed party involved in a positive laboratory finding of any hearings and any resulting action. In addition their presence may be required at any and all hearings relative to the case;

(c) Any veterinarian found to be involved in the administration of any drug with an RCI Classification of 1, 2, or 3, involved in a prohibited practice as outlined in OAR 462-160-0120, or involved in an ORS 462 violation shall be referred to the State Licensing Board of Veterinary Medicine for consideration of further disciplinary action and/or license revocation. This is in addition to any penalties issued by the stewards or the commission;

(d) Any person who the stewards or the commission believe may have committed acts in violation of criminal statutes may be referred to the appropriate law enforcement agency. Administrative action taken by the stewards or the commission does not prohibit a prosecution for criminal acts committed, nor does a potential criminal prosecution stall administrative action by the stewards or the commission;

(e) Procedures shall be established to ensure that a licensed trainer is not able to benefit financially during the period for which the individual has been suspended. This includes, but is not limited to, ensuring that horses are not transferred to licensed family members.

(2) Medication Restrictions:

(a) A finding by the commission approved laboratory of a prohibited drug, chemical or other substance in a test specimen of a horse is prima facie evidence that the prohibited drug, chemical or other substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race. Prohibited substances include:

(A) Drugs or medications for which no acceptable threshold concentration has been established;

(B) Therapeutic medications in excess of established threshold concentrations;

(C) Substances present in the horse in excess of concentrations at which such substances could occur naturally; and

(D) Substances foreign to a horse at concentrations that cause interference with testing procedures.

(b) Except as otherwise provided by this chapter, a person may not administer or cause to be administered by any means to a horse a prohibited drug, medication, chemical or other substance, including any restricted medication pursuant to this chapter less than 24 hours before post time for the race in which the horse is entered.

(3) Medical Labeling:

(a) No person on association grounds where horses are lodged or kept, excluding licensed veterinarians, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effects or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with this subsection;

(b) Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription must have been validly prescribed by a duly licensed veterinarian, and in compliance with the applicable state statutes. All such allowable medications must have a prescription label which is securely attached and clearly ascribed to show the following:

(A) The name of the product;

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(B) The name, address and telephone number of the veterinarian prescribing or dispensing the product;

(C) The name of each patient (horse) for whom the product is intended/prescribed;

(D) The dose, dosage, duration of treatment and expiration date of the prescribed/dispensed product; and

(E) The name of the person (trainer) to whom the product was dispensed.

(4) Non-Steroidal Anti-Inflammatory Drugs (NSAIDs):

(a) The use of one of three approved NSAIDs shall be permitted under the following conditions:

(A) The approved NSAIDs shall be authorized medication at race meets at which the average daily gross mutuel wagering during the preceding year exceeded \$150,000. If a race meet with average daily gross mutuel wagering during the preceding year of \$150,000 or less desires NSAIDs be authorized medications at their race meet they may petition the commission to approve the use of permitted NSAIDs at their race meet. The commission may approve the use of permitted NSAIDs at such race meet, if in the opinion of the commission the race meet can provide for the necessary qualified staffing, security and for the additional laboratory analysis costs and any other controls necessary to administer the program adequately. Horses on any permitted NSAID will be designated on the overnight and the daily racing program with an "M";

(B) No horse utilizing a permitted NSAID may be entered into a race unless the presence of the specific NSAID is stated on the entry form at the time of entry. Errors may be corrected up until scratch time. If no scratch time is used, the stewards may designate a time until which errors may be corrected;

(C) Not to exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection not less than 24 hours before the post time for the race in which the horse is entered:

(i) Phenylbutazone (or its metabolite oxyphenylbutazone) — 5 micrograms per milliliter;

(ii) Flunixin — 50 nanograms per milliliter;

(iii) Ketoprofen — 10 nanograms per milliliter.

(D) These or any other NSAIDs are prohibited to be administered within the 24-hours before the original post time for the race in which the horse is entered;

(E) The presence of more than one of the three approved NSAIDs in serum or plasma is not permitted in a post-race sample; however, the presence of two approved NSAIDs in a post-race sample is allowed if one of them is phenylbutazone with a serum or plasma concentration less than one microgram per milliliter (mcg/ml).

(F) The presence of any unapproved NSAID in serum, plasma or urine sample is not permitted in a post-race sample.

(b) Any horse to which an NSAID has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of a commission veterinarian to determine the quantitative NSAID level(s) and/or the presence of other drugs which may be present in the blood or urine sample(s);

(c) When listed to race on a permitted NSAID, the approved laboratory must be able to detect the presence of a permitted NSAID in serum, plasma or urine by the routine methods of detection;

(d) If a permitted NSAID is detected in the urine or in any other specimen taken from a horse not stated to have permitted medication in its system on the entry form and/or program, the violation will result in a penalty to the horse's trainer and may result in loss of purse;

(e) If the same horse has three (3) overages of any permitted NSAID during a 365 day period a commission veterinarian may rule the horse off all NSAIDs for a period of one year (365 days);

(f) The decision of whether to scratch a horse which has been entered incorrectly or is incorrectly treated shall be left to the discretion of a commission veterinarian.

(5) Furosemide:

(a) The commission may approve the use of furosemide at any race meet if, in the opinion of the commission, the race meet can provide the necessary qualified staffing, security and for the additional laboratory analysis costs and any other controls necessary to administer a furosemide program;

(b) Furosemide may be administered intravenously to a horse, which is entered to compete in a race. Except under the instructions of a commission veterinarian or the racing veterinarian for the purpose of removing a horse from the Veterinarian's List or to facilitate the collection of a post-race urine sample, furosemide shall be permitted only if the following process is followed:

(A) After the horse's licensed trainer and licensed veterinarian determine that it would be in the horse's best interests to race with furosemide, the horse may be so entered.

(B) The horse may discontinue from racing on furosemide at the licensed trainer's choice at the time of entry.

(C) Furosemide shall only be administered on association grounds;

(D) Upon the request of the regulatory agency designee, the veterinarian administering the authorized bleeder medication shall surrender the syringe used to administer such medication which may then be submitted for testing.

(c) Horses to run with furosemide must be so noted on the entry form at the time of entry. Errors may be corrected up until scratch time. If no scratch time is used, the stewards may designate a time until which errors may be corrected:

(A) Horses entered to race with furosemide will be designated on the overnight and the daily racing program with a "Lasix®" or "L". If the race is the first race the horse is to run in on furosemide, it shall be designated in the daily racing program with a "1-L". If the race is the first race the horse runs without furosemide after running one or more races with furosemide, it shall be designated in the program by "O-L" or "L-X";

(B) When discovered prior to the race, errors in the listing of furosemide treatments in the program shall be announced to the public.

(d) The use of furosemide shall be permitted under the following circumstances:

(A) Furosemide shall be administered no more than five hours but not less than four hours prior to the original scheduled post time for the race for which the horse is entered;

(B) The furosemide dosage administered shall not exceed 500 mg, nor be less than 150 mg;

(C) Furosemide shall be administered by a single, intravenous injection;

(D) The veterinarian treating the horse shall cause to be delivered to a commission veterinarian or designated representative no later than one hour prior to post time for the race for which the horse is entered the following information under oath on a form approved by a commission veterinarian:

(i) The name of the horse, racetrack name, the date and time the furosemide was administered to the entered horse;

(ii) The dosage amount of furosemide administered to the entered horse; and

(iii) The printed name and signature of the attending licensed veterinarian who administered the furosemide;

(iv) Violations of this subsection (subsection (d)) shall result in a fine and scratch from the race the horse was entered to run. Violations may also result in a commission veterinarian ordering the loss of furosemide privileges.

(e) Test results must show a detectable concentration of the drug in the post-race serum, plasma or urine sample. If furosemide is not detected in a post-race sample, a penalty may be imposed upon the horse's trainer without loss of purse:

(A) Quantification of furosemide in serum or plasma shall be performed. Concentrations of furosemide in serum or plasma shall not exceed 100 nanograms of furosemide per milliliter of serum or plasma. When the concentration of furosemide exceeds 100 nanograms of furosemide per milliliter of serum or plasma, specific gravity of the corresponding urine sample shall be measured.

(B) The specific gravity of past-race urine samples may be measured to ensure that samples are sufficiently concentrated for proper chemical analysis. The specific gravity shall not be below 1.010.

(f) Unauthorized use of furosemide shall result in a penalty to the horse's trainer;

(g) The decision of whether to scratch a horse which has been entered incorrectly or is incorrectly treated shall be left to the discretion of a commission veterinarian;

(h) A commission veterinarian may rule a horse off furosemide if in his/her opinion it is in the horse's best interest, the interest of the citizens of the state or the best interest of horse racing.

(6) Bleeder List:

(a) The commission veterinarians shall maintain a Bleeder List of all horses, which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout as observed by a commission veterinarian;

(b) Every confirmed bleeder, regardless of age, shall be placed on the Bleeder List and be ineligible to enter for the following time periods:

(A) First incident — 14 days;

(B) Second incident within 365 day period — 30 days;

(C) Third incident within 365 day period — 180 days;

(D) Fourth incident within 365-day period — barred for racing lifetime.

(c) For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period;

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(d) The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined by this policy;

(e) A horse may be removed from the Bleeder List only upon the direction of a commission veterinarian;

(f) A horse which has been placed on a Bleeder List in another jurisdiction pursuant to these rules shall be placed on a Bleeder List in this jurisdiction.

(7) Anti-Ulcer Medications. The following anti-ulcer medications are permitted to be administered, at the stated dosage, up to 24 hours prior to the race in which the horse is entered:

(a) Cimetidine — 8-20 mg/kg by mouth two to three times a day; and

(b) Omeprazole — 2.2 grams by mouth once a day; and

(c) Ranitidine — 6.6 mg/kg by mouth three times a day.

(8) Environmental Contaminants and Substances of Human Use:

(a) The following substances can be environmental contaminants in that they are endogenous to the horse or that they can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases: Polyethylene glycol (PEG), PEG-like substances, Hordenine;

(b) Regulatory thresholds have been set for the following substances: Caffeine — 100 nanograms of caffeine per milliliter of serum or plasma;

(c) If the preponderance of evidence presented in the hearing shows that a positive test is the result of environmental contamination or inadvertent exposure due to human drug use it should be considered as a mitigating factor in any disciplinary action taken against the affected trainer.

(9) Dimethylsulfoxide (DMSO): The use of DMSO shall be permitted under the following conditions:

(a) It is only administered as an external topical application;

(b) A test sample shall not exceed 10 micrograms / ml. in serum of DMSO or its analogs.

(10) Androgenic-Anabolic Steroids (AAS)

(a) No AAS shall be permitted in test samples collected from racing horses except for residues of the major metabolite of stanozolol, nandrolone, and the naturally occurring substances boldenone and testosterone at concentrations equal to or less than the indicated thresholds.

(b) Concentrations of these AAS shall not exceed the following urine threshold concentrations in total (free drug; or metabolite and drug; or metabolite liberated from its conjugates):

(A) 16 β -hydroxystanozolol (metabolite of stanozolol (Winstrol)): 1 ng/ml for all horses regardless of sex.

(B) Boldenone (Equipose® is the undecylenate ester of boldenone) in:

(i) Male horses other than geldings — 15 ng/ml

(ii) No boldenone shall be permitted in geldings or female horses

(C) Nandrolone (Durabolin® is the phenylpropionate ester and Deca-Durabolin® is the decanoate ester) in:

(i) Geldings — 1 ng/ml

(ii) Fillies and mares — 1 ng/ml

(iii) In male horses other than geldings — forty-five (45) ng/ml of nandrolone metabolite, 5 α -oestrane-3 β 17 α -diol

(D) Testosterone in:

(i) Geldings — 20 ng/ml

(ii) Fillies and mares — 55 ng/ml

(iii) Male horses other than geldings — Testosterone will not be tested

(c) All other AAS are prohibited in racing horses.

(d) Post-race urine samples collected from intact males must be identified to the laboratory.

(e) Any horse to which an anabolic steroid has been administered in order to assist in the recovery from illness or injury may be placed on the veterinarian's list in order to monitor the concentration of the drug or metabolite in urine. After the urine concentration has fallen below the designated threshold for the administered AAS, the horse is eligible to be removed from the list.

(f) From the first day of the Portland Meadows 2008-09 race meet until and including ninety (90) days, a grace period will be in place to offer a warning instead of a penalty for violations of subsection 462-160-0130(10), unless it is determined by a commission veterinarian that abuse of androgenic anabolic steroids is evident.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270 & 462.415

Hist.: RC 2-2006(Temp), f. & cert. ef. 10-2-06 thru 3-21-07; RC 1-2007, f. 2-28-07, cert. ef. 3-7-07; RC 6-2007(Temp), f. & cert. ef. 11-28-07 thru 5-23-08; RC 1-2008, f. & cert. ef. 4-7-08; RC 2-2008, f. & cert. ef. 9-30-08

462-160-0140

Testing

(1) Reporting to the Test Barn:

(a) The board of stewards or a commission veterinarian may require any horse to be tested for drugs prior to removal from any list, after any race or workout, or whenever they have a reasonable suspicion that an illegal drug or excessive quantity of an authorized drug has been used in a horse;

(b) The official winning horse and any other horse ordered by the commission and/or the stewards shall be taken to the test barn to have a blood and urine samples taken at the direction of a commission veterinarian. The horse(s) ordered to the test barn shall be identified by a readily identifiable tag or ribbon attached to the bridle;

(c) Random or extra testing may be required by the stewards or the commission at any time on any horse on association grounds;

(d) Unless otherwise directed by the stewards or a commission veterinarian, a horse that is selected for testing must be taken directly to the test barn;

(e) A track security guard shall monitor access to the test barn area during hours posted by a commission veterinarian. All persons who wish to enter the test barn area must be a minimum of 15-years-old, be currently licensed by the commission, display their commission identification badge and have a legitimate reason for being in the test barn area;

(f) Whenever requested by the stewards or a commission veterinarian, any horse on a racecourse or that was on a racecourse, shall be immediately submitted by the horse's owner, trainer or trainer authorized agent to a commission veterinarian or designated representative for examination or testing. If the horse is not on the racecourse, it must be promptly returned to the racecourse. An extension of time may be granted if good cause is given at the time the request is made;

(g) A claimed horse shall remain in the care and custody of the original trainer or his/her representative until after the post race test has been taken.

(2) Sample Collection:

(a) Sample collection shall be done in accordance with the guidelines and instructions provided by a commission veterinarian;

(b) A commission veterinarian shall determine a minimum sample requirement for the primary testing laboratory;

(c) If a urine sample is not obtained within one hour of the time the horse started walking, the commission veterinarian may administer furosemide to the horse. The needle and syringe used for the diuretic shall be labeled and attached to the urine sample container. The quantity of furosemide administered shall be indicated on all portions of the urine sample tag;

(d) Any test or examination made by a commission veterinarian may be witnessed by any commission representative and by the owner, trainer, or authorized agent of the trainer.

(3) Storage and Shipment of Split Samples:

(a) Split samples obtained in accordance with subsection (2) above shall be secured and made available for further testing in accordance with the following procedures:

(A) A split sample shall be secured in the test barn under the same manner as the portion of the specimen acquired for shipment to a primary laboratory until such time as specimens are packed and secured for shipment to the primary laboratory. Split samples shall then be transferred to a freezer and/or refrigerator at a secure location approved by the commission;

(B) A freezer and/or refrigerator for storage of split samples shall be opened only for depositing or removing split samples, for inventory, or for checking the condition of samples.

(b) A trainer or owner of a horse having been notified that a written report from a primary laboratory states that a prohibited substance has been found in a specimen obtained pursuant to these rules may request that a split sample corresponding to the portion of the specimen tested by the primary laboratory be sent to another laboratory approved by the commission. The request must be made in writing and delivered to a designated commission representative not later than 72-hours after the trainer of the horse receives written notice of the findings of the primary laboratory. Any split sample so requested must be shipped within the stated 72 hours;

(c) The owner or trainer requesting testing of a split sample shall be responsible for the cost of shipping and testing. Failure of the owner, trainer or designee to appear at the time and place designated by a commission veterinarian shall constitute a waiver of all rights to split sample testing. Prior to shipment, the commission shall confirm the split sample laboratory's willingness to provide the testing requested and arrangements for payment satisfactory to the split sample laboratory;

(d) The package containing the split sample shall be transported in a manner prescribed by the commission to the location where custody is transferred to the delivery carrier charged with delivery of the package to the commission-approved laboratory selected by the owner or trainer;

(e) The commission will not release a horse's specimen to any representative of the horse. All expenses for a confirmation test, including but not limited to transportation, analysis and personal testimony from the reference laboratory shall be borne by the horse's representative. A copy of all written material received by the laboratory which conducted the confirma-

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tion analysis shall be forwarded to the horse's representative. The commission or stewards may use the written material as evidence at any hearing.

(4) Laboratory Minimum Standards: Laboratories conducting either primary or split post-race sample analysis must meet at least the following minimum standards:

(a) A testing laboratory must adhere to and comply with any standards set forth and required by the commission;

(b) A testing laboratory must have, or have access to, LC/MS instrumentation for screening and/or confirmation purposes;

(c) A testing laboratory must be able to meet minimum standards of detection, which is defined as the specific concentration at which a laboratory is expected to detect the presence of a particular drug and/or metabolite or by the adoption of a regulatory threshold.

(5) Refusal Or Interfering With Sample(s)/Collection:

(a) Failure to be present at or refusal to allow the taking of a sample is prohibited;

(b) Any act, disturbance or threat to impede, prevent or interfere with the taking of a sample, ORC personnel while documenting a sample or following a commission veterinarian's guidelines for collection and documentation of a sample is prohibited and shall be reported to the stewards;

(c) Any violation of this section shall be deemed an admission of violation of ORS 462.415(b).

(6) Substances That Cause Interference With Testing Procedures:

(a) If laboratory analysis detects any adulteration or substance in quantities that interfere with routine screening or the true and accurate testing and analysis of any sample taken from an animal, the laboratory shall perform alternate testing procedures to determine if any other prohibited drug(s) are present. If another prohibited or unauthorized drug is found, the sanctions for the use of such drug shall additionally apply;

(b) Sulfa drugs. Non-interfering levels of sulfa drugs in urine tests shall not be considered a violation of the prohibited medication statutes of rules. Non-interfering level shall be considered to be anything less than 1 microgram per milliliter of urine.

(7) Presence Of A Prohibited Substance:

(a) Laboratory analysis of saliva, urine, blood or other sample taken from a horse after a race which indicates the presence of an unauthorized drug or an excessive quantity of an authorized drug shall be conclusive evidence that the horse contained that drug or quantity of drug during the running of the race;

(b) When laboratory analysis confirms the presence of an unauthorized drug, the commission investigators shall immediately conduct a thorough investigation of the incident. Within a reasonable time after receipt of the lab results and investigative report, the stewards shall hold or request the

commission to hold a hearing to determine if the horse raced with an unauthorized drug and/or an excessive amount of an authorized drug in its system, and if so, who was responsible for the horse's condition;

(c) If a horse is found to have raced in violation of the medication statutes and rules, excluding those statutes and rules governing the use of non-steroidal anti-inflammatory drugs or with trace levels of therapeutic medications as determined by the commission as authorized by ORS 462.415, its owners shall not participate in the purse distribution of that race and the horse shall be disqualified. Those owners shall promptly return any portion of the purse, together with any trophy. When a horse is disqualified in a race because of this rule, the eligibility of other horses which ran in the race and which have started in a subsequent race before announcement of the disqualification shall not be affected. If the ruling or order disqualifying a horse is appealed to the commission, all horses involved in the race shall participate in future races based upon the original order of finish of the race in question until final disposition of the appeal by the commission.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270 & 462.415

Hist.: RC 2-2006(Temp), f. & cert. ef. 10-2-06 thru 3-21-07; RC 1-2007, f. 2-28-07, cert. ef. 3-7-07; RC 2-2007(Temp), f. 2-28-07, cert. ef. 3-7-07 thru 8-31-07; RC 5-2007, f. & cert. ef. 8-6-07; RC 2-2008, f. & cert. ef. 9-30-08

462-220-0060

Where the Wager is Considered to Have Been Made

(1) Any wager that is made from an account maintained by the hub operator is considered to have been made in the State of Oregon.

(2) Account holders may communicate instructions concerning account wagers to the hub in person, by mail, telephone, or electronic means. Computer assisted wagers are permitted only if there is human intervention in the wagering process. By way of example and not limitation, permissible human intervention includes a natural person making the final decision regarding whether or not a wager formulated by a computer should be submitted. A computer assisted wager means a wager placed by an account holder with respect to which all of the following occur: the tote information relating to the race on which the wager is placed is received by the account holder's computer in electronic format indirectly through an interface provided by a hub; the account holder utilizes a computer to formulate, or assist in formulating, the wager using the electronic tote information; and the account holder submits the wager through an electronic interface provided by a hub.

Stat. Auth.: ORS 462.270(3) & 462.725

Stats. Implemented: ORS 462.725

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, F. & cert. ef. 9-30-08

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123-009-0060	1-2-2008	Amend	2-1-2008	123-018-0100	3-4-2008	Amend(T)	4-1-2008
123-009-0060	3-28-2008	Amend(T)	5-1-2008	123-018-0100	8-1-2008	Amend	9-1-2008
123-009-0060	6-4-2008	Amend	7-1-2008	123-018-0160	3-4-2008	Amend(T)	4-1-2008
123-009-0080	1-2-2008	Amend	2-1-2008	123-018-0160	8-1-2008	Amend	9-1-2008
123-009-0080	3-28-2008	Amend(T)	5-1-2008	123-019-0010	8-1-2008	Amend	9-1-2008
123-009-0080	6-4-2008	Amend	7-1-2008	123-019-0020	2-26-2008	Amend(T)	4-1-2008
123-009-0090	1-2-2008	Amend	2-1-2008	123-019-0020	8-1-2008	Amend	9-1-2008
123-009-0090	3-28-2008	Amend(T)	5-1-2008	123-019-0040	2-26-2008	Amend(T)	4-1-2008
123-009-0090	6-4-2008	Amend	7-1-2008	123-019-0040	8-1-2008	Amend	9-1-2008
123-011-0025	8-1-2008	Amend	9-1-2008	123-021-0010	2-26-2008	Amend(T)	4-1-2008
123-011-0027	8-1-2008	Amend	9-1-2008	123-021-0010	8-1-2008	Amend	9-1-2008
123-011-0030	3-4-2008	Amend(T)	4-1-2008	123-021-0015	8-1-2008	Adopt	9-1-2008
123-011-0030	8-1-2008	Amend	9-1-2008	123-021-0020	8-1-2008	Amend	9-1-2008
123-011-0035	3-4-2008	Amend(T)	4-1-2008	123-021-0030	2-26-2008	Suspend	4-1-2008
123-011-0035	8-1-2008	Amend	9-1-2008	123-021-0040	8-1-2008	Amend	9-1-2008
123-011-0037	3-4-2008	Adopt(T)	4-1-2008	123-021-0050	2-26-2008	Amend(T)	4-1-2008
123-011-0037	8-1-2008	Adopt	9-1-2008	123-021-0050	8-1-2008	Amend	9-1-2008
123-011-0040	3-4-2008	Amend(T)	4-1-2008	123-021-0060	8-1-2008	Amend	9-1-2008

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123-021-0080	8-1-2008	Amend	9-1-2008	123-042-0026	10-3-2008	Amend	11-1-2008
123-021-0090	2-26-2008	Amend(T)	4-1-2008	123-042-0036	4-9-2008	Amend(T)	5-1-2008
123-021-0090	8-1-2008	Amend	9-1-2008	123-042-0036	10-3-2008	Amend	11-1-2008
123-021-0100	8-1-2008	Amend	9-1-2008	123-042-0038	10-3-2008	Adopt	11-1-2008
123-021-0110	8-1-2008	Amend	9-1-2008	123-043-0010	4-9-2008	Amend(T)	5-1-2008
123-021-0120	8-1-2008	Amend	9-1-2008	123-043-0010	10-3-2008	Amend	11-1-2008
123-021-0130	8-1-2008	Amend	9-1-2008	123-043-0035	4-9-2008	Amend(T)	5-1-2008
123-021-0140	8-1-2008	Amend	9-1-2008	123-043-0035	10-3-2008	Amend	11-1-2008
123-023-1000	8-1-2008	Amend	9-1-2008	123-043-0045	4-9-2008	Amend(T)	5-1-2008
123-023-1100	8-1-2008	Amend	9-1-2008	123-043-0045	10-3-2008	Amend	11-1-2008
123-023-1200	8-1-2008	Amend	9-1-2008	123-043-0055	4-9-2008	Amend(T)	5-1-2008
123-023-1250	8-1-2008	Adopt	9-1-2008	123-043-0055	10-3-2008	Amend	11-1-2008
123-023-1300	8-1-2008	Amend	9-1-2008	123-043-0075	4-9-2008	Amend(T)	5-1-2008
123-023-1400	8-1-2008	Amend	9-1-2008	123-043-0075	10-3-2008	Amend	11-1-2008
123-023-1500	8-1-2008	Amend	9-1-2008	123-049-0005	9-1-2008	Amend	10-1-2008
123-023-1525	8-1-2008	Adopt	9-1-2008	123-049-0010	9-1-2008	Amend	10-1-2008
123-023-1550	8-1-2008	Adopt	9-1-2008	123-049-0020	9-1-2008	Amend	10-1-2008
123-023-1600	8-1-2008	Amend	9-1-2008	123-049-0030	9-1-2008	Amend	10-1-2008
123-023-1700	8-1-2008	Amend	9-1-2008	123-049-0040	9-1-2008	Amend	10-1-2008
123-023-1800	8-1-2008	Amend	9-1-2008	123-049-0050	9-1-2008	Amend	10-1-2008
123-023-1900	8-1-2008	Amend	9-1-2008	123-049-0060	9-1-2008	Amend	10-1-2008
123-023-1950	8-1-2008	Adopt	9-1-2008	123-055-0100	3-4-2008	Amend(T)	4-1-2008
123-023-2000	8-1-2008	Amend	9-1-2008	123-055-0100	9-1-2008	Amend	10-1-2008
123-023-3000	8-1-2008	Adopt	9-1-2008	123-055-0120	3-4-2008	Amend(T)	4-1-2008
123-023-3100	8-1-2008	Adopt	9-1-2008	123-055-0120	9-1-2008	Amend	10-1-2008
123-023-3200	8-1-2008	Adopt	9-1-2008	123-055-0200	3-4-2008	Amend(T)	4-1-2008
123-023-3300	8-1-2008	Adopt	9-1-2008	123-055-0200	9-1-2008	Amend	10-1-2008
123-023-3400	8-1-2008	Adopt	9-1-2008	123-055-0220	3-4-2008	Amend(T)	4-1-2008
123-023-4000	8-1-2008	Adopt	9-1-2008	123-055-0220	9-1-2008	Amend	10-1-2008
123-023-4100	8-1-2008	Adopt	9-1-2008	123-055-0240	3-4-2008	Amend(T)	4-1-2008
123-024-0001	3-20-2008	Amend(T)	5-1-2008	123-055-0240	9-1-2008	Amend	10-1-2008
123-024-0001	9-1-2008	Amend	10-1-2008	123-055-0300	3-4-2008	Amend(T)	4-1-2008
123-024-0011	3-20-2008	Amend(T)	5-1-2008	123-055-0300	9-1-2008	Amend	10-1-2008
123-024-0011	9-1-2008	Amend	10-1-2008	123-055-0340	3-4-2008	Amend(T)	4-1-2008
123-024-0031	3-20-2008	Amend(T)	5-1-2008	123-055-0340	9-1-2008	Amend	10-1-2008
123-024-0031	9-1-2008	Amend	10-1-2008	123-055-0400	3-4-2008	Amend(T)	4-1-2008
123-024-0041	3-20-2008	Suspend	5-1-2008	123-055-0400	9-1-2008	Amend	10-1-2008
123-024-0041	9-1-2008	Repeal	10-1-2008	123-055-0420	3-4-2008	Amend(T)	4-1-2008
123-025-0010	12-7-2007	Amend(T)	1-1-2008	123-055-0420	9-1-2008	Amend	10-1-2008
123-025-0010	6-4-2008	Amend	7-1-2008	123-055-0440	3-4-2008	Amend(T)	4-1-2008
123-025-0012	12-7-2007	Amend(T)	1-1-2008	123-055-0440	9-1-2008	Amend	10-1-2008
123-025-0012	6-4-2008	Amend	7-1-2008	123-055-0460	3-4-2008	Amend(T)	4-1-2008
123-025-0014	12-7-2007	Adopt(T)	1-1-2008	123-055-0460	9-1-2008	Amend	10-1-2008
123-025-0015	12-7-2007	Suspend	1-1-2008	123-055-0525	3-4-2008	Amend(T)	4-1-2008
123-025-0015	6-4-2008	Amend	7-1-2008	123-055-0525	9-1-2008	Amend	10-1-2008
123-025-0017	12-7-2007	Amend(T)	1-1-2008	123-055-0620	3-4-2008	Amend(T)	4-1-2008
123-025-0017	6-4-2008	Amend	7-1-2008	123-055-0620	9-1-2008	Amend	10-1-2008
123-025-0021	12-7-2007	Amend(T)	1-1-2008	123-055-0900	3-4-2008	Amend(T)	4-1-2008
123-025-0021	6-4-2008	Amend	7-1-2008	123-055-0900	9-1-2008	Amend	10-1-2008
123-025-0023	12-7-2007	Amend(T)	1-1-2008	123-057-0110	3-4-2008	Amend(T)	4-1-2008
123-025-0023	6-4-2008	Amend	7-1-2008	123-057-0110	9-1-2008	Amend	10-1-2008
123-025-0025	12-7-2007	Amend(T)	1-1-2008	123-057-0130	3-4-2008	Amend(T)	4-1-2008
123-025-0025	6-4-2008	Amend	7-1-2008	123-057-0130	9-1-2008	Amend	10-1-2008
123-025-0030	12-7-2007	Amend(T)	1-1-2008	123-057-0150	3-4-2008	Amend(T)	4-1-2008
123-025-0030	6-4-2008	Amend	7-1-2008	123-057-0150	9-1-2008	Amend	10-1-2008
123-042-0020	4-9-2008	Amend(T)	5-1-2008	123-057-0190	3-4-2008	Amend(T)	4-1-2008
123-042-0020	10-3-2008	Amend	11-1-2008	123-057-0190	9-1-2008	Amend	10-1-2008

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123-057-0210	9-1-2008	Amend	10-1-2008	125-125-0350	6-17-2008	Amend	8-1-2008
123-057-0230	3-4-2008	Amend(T)	4-1-2008	125-125-0400	4-15-2008	Amend(T)	5-1-2008
123-057-0230	9-1-2008	Amend	10-1-2008	125-125-0400	6-17-2008	Amend	8-1-2008
123-057-0310	3-4-2008	Suspend	4-1-2008	125-125-0500	4-15-2008	Adopt(T)	5-1-2008
123-057-0310	9-1-2008	Repeal	10-1-2008	125-125-0500	6-17-2008	Adopt	8-1-2008
123-057-0330	3-4-2008	Amend(T)	4-1-2008	125-125-0600	4-15-2008	Adopt(T)	5-1-2008
123-057-0330	9-1-2008	Amend	10-1-2008	125-125-0600	6-17-2008	Adopt	8-1-2008
123-057-0350	3-4-2008	Amend(T)	4-1-2008	125-145-0010	12-6-2007	Suspend	1-1-2008
123-057-0350	9-1-2008	Amend	10-1-2008	125-145-0010	2-6-2008	Repeal	3-1-2008
123-057-0410	3-4-2008	Amend(T)	4-1-2008	125-145-0020	12-6-2007	Suspend	1-1-2008
123-057-0410	9-1-2008	Amend	10-1-2008	125-145-0020	2-6-2008	Repeal	3-1-2008
123-057-0430	3-4-2008	Amend(T)	4-1-2008	125-145-0030	12-6-2007	Suspend	1-1-2008
123-057-0430	9-1-2008	Amend	10-1-2008	125-145-0030	2-6-2008	Repeal	3-1-2008
123-057-0450	3-4-2008	Amend(T)	4-1-2008	125-145-0040	12-6-2007	Suspend	1-1-2008
123-057-0450	9-1-2008	Amend	10-1-2008	125-145-0040	2-6-2008	Repeal	3-1-2008
123-057-0470	3-4-2008	Amend(T)	4-1-2008	125-145-0045	12-6-2007	Suspend	1-1-2008
123-057-0470	9-1-2008	Amend	10-1-2008	125-145-0045	2-6-2008	Repeal	3-1-2008
123-057-0510	3-4-2008	Amend(T)	4-1-2008	125-145-0060	12-6-2007	Suspend	1-1-2008
123-057-0510	9-1-2008	Amend	10-1-2008	125-145-0060	2-6-2008	Repeal	3-1-2008
123-057-0530	3-4-2008	Amend(T)	4-1-2008	125-145-0080	12-6-2007	Suspend	1-1-2008
123-057-0530	9-1-2008	Amend	10-1-2008	125-145-0080	2-6-2008	Repeal	3-1-2008
123-057-0710	3-4-2008	Amend(T)	4-1-2008	125-145-0090	12-6-2007	Suspend	1-1-2008
123-057-0710	9-1-2008	Amend	10-1-2008	125-145-0090	2-6-2008	Repeal	3-1-2008
123-105-0000	8-1-2008	Repeal	9-1-2008	125-145-0100	12-6-2007	Suspend	1-1-2008
123-105-0010	8-1-2008	Repeal	9-1-2008	125-145-0100	2-6-2008	Repeal	3-1-2008
123-105-0020	8-1-2008	Repeal	9-1-2008	125-145-0105	12-6-2007	Suspend	1-1-2008
123-105-0030	8-1-2008	Repeal	9-1-2008	125-145-0105	2-6-2008	Repeal	3-1-2008
123-105-0040	8-1-2008	Repeal	9-1-2008	125-160-0010	10-15-2008	Amend(T)	11-1-2008
123-105-0050	8-1-2008	Repeal	9-1-2008	125-160-0020	10-15-2008	Adopt(T)	11-1-2008
123-105-0060	8-1-2008	Repeal	9-1-2008	125-246-0100	7-2-2008	Amend	8-1-2008
123-105-0070	8-1-2008	Repeal	9-1-2008	125-246-0110	7-2-2008	Amend	8-1-2008
123-105-0080	8-1-2008	Repeal	9-1-2008	125-246-0130	7-2-2008	Amend	8-1-2008
123-105-0090	8-1-2008	Repeal	9-1-2008	125-246-0140	7-2-2008	Amend	8-1-2008
123-135-0020	6-4-2008	Amend	7-1-2008	125-246-0170	7-2-2008	Amend	8-1-2008
123-135-0070	6-4-2008	Amend	7-1-2008	125-246-0200	7-2-2008	Amend	8-1-2008
123-145-0100	8-1-2008	Repeal	9-1-2008	125-246-0310	7-2-2008	Amend	8-1-2008
123-145-0200	8-1-2008	Repeal	9-1-2008	125-246-0330	7-2-2008	Amend	8-1-2008
123-145-0300	8-1-2008	Repeal	9-1-2008	125-246-0333	7-2-2008	Adopt	8-1-2008
123-145-0400	8-1-2008	Repeal	9-1-2008	125-246-0335	7-2-2008	Amend	8-1-2008
123-145-0500	8-1-2008	Repeal	9-1-2008	125-246-0345	7-2-2008	Amend	8-1-2008
123-145-0600	8-1-2008	Repeal	9-1-2008	125-246-0350	7-2-2008	Amend	8-1-2008
123-145-0700	8-1-2008	Repeal	9-1-2008	125-246-0353	7-2-2008	Amend	8-1-2008
123-145-1000	8-1-2008	Repeal	9-1-2008	125-246-0355	7-2-2008	Repeal	8-1-2008
123-145-1100	8-1-2008	Repeal	9-1-2008	125-246-0365	7-2-2008	Adopt	8-1-2008
123-145-1200	8-1-2008	Repeal	9-1-2008	125-246-0400	7-2-2008	Amend	8-1-2008
123-145-1300	8-1-2008	Repeal	9-1-2008	125-246-0410	7-2-2008	Amend	8-1-2008
125-050-0200	2-29-2008	Adopt	4-1-2008	125-246-0420	7-2-2008	Amend	8-1-2008
125-125-0050	4-15-2008	Amend(T)	5-1-2008	125-246-0430	7-2-2008	Amend	8-1-2008
125-125-0050	6-17-2008	Amend	8-1-2008	125-246-0440	7-2-2008	Amend	8-1-2008
125-125-0100	4-15-2008	Amend(T)	5-1-2008	125-246-0450	7-2-2008	Amend	8-1-2008
125-125-0100	6-17-2008	Amend	8-1-2008	125-246-0460	7-2-2008	Amend	8-1-2008
125-125-0150	4-15-2008	Amend(T)	5-1-2008	125-246-0555	7-2-2008	Amend	8-1-2008
125-125-0150	6-17-2008	Amend	8-1-2008	125-246-0556	7-2-2008	Adopt	8-1-2008
125-125-0250	4-15-2008	Amend(T)	5-1-2008	125-246-0560	7-2-2008	Amend	8-1-2008
125-125-0250	6-17-2008	Amend	8-1-2008	125-246-0570	7-2-2008	Amend	8-1-2008
125-125-0300	4-15-2008	Amend(T)	5-1-2008	125-246-0575	7-2-2008	Amend	8-1-2008
125-125-0300	6-17-2008	Amend	8-1-2008	125-246-0700	2-29-2008	Am. & Ren.	4-1-2008

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125-246-0720	2-29-2008	Am. & Ren.	4-1-2008	125-249-0280	7-2-2008	Amend	8-1-2008
125-246-0730	2-29-2008	Am. & Ren.	4-1-2008	125-249-0290	7-2-2008	Amend	8-1-2008
125-246-0800	7-2-2008	Amend	8-1-2008	125-249-0310	7-2-2008	Amend	8-1-2008
125-247-0010	7-2-2008	Amend	8-1-2008	125-249-0390	7-2-2008	Amend	8-1-2008
125-247-0100	7-2-2008	Amend	8-1-2008	125-249-0395	7-2-2008	Amend	8-1-2008
125-247-0170	7-2-2008	Amend	8-1-2008	125-249-0430	7-2-2008	Amend	8-1-2008
125-247-0200	7-2-2008	Amend	8-1-2008	125-249-0460	7-2-2008	Amend	8-1-2008
125-247-0255	7-2-2008	Amend	8-1-2008	125-249-0470	7-2-2008	Amend	8-1-2008
125-247-0256	7-2-2008	Amend	8-1-2008	125-249-0630	7-2-2008	Amend	8-1-2008
125-247-0260	7-2-2008	Amend	8-1-2008	125-249-0645	7-2-2008	Amend	8-1-2008
125-247-0261	7-2-2008	Amend	8-1-2008	125-249-0800	7-2-2008	Amend	8-1-2008
125-247-0265	7-2-2008	Amend	8-1-2008	125-249-0860	7-2-2008	Amend	8-1-2008
125-247-0270	7-2-2008	Amend	8-1-2008	125-600-7550	6-30-2008	Adopt	8-1-2008
125-247-0275	7-2-2008	Amend	8-1-2008	137-008-0000	5-1-2008	Amend	6-1-2008
125-247-0280	7-2-2008	Amend	8-1-2008	137-008-0005	5-1-2008	Amend	6-1-2008
125-247-0286	7-2-2008	Amend	8-1-2008	137-008-0010	5-1-2008	Amend	6-1-2008
125-247-0287	7-2-2008	Amend	8-1-2008	137-008-0020	5-1-2008	Amend	6-1-2008
125-247-0288	7-2-2008	Amend	8-1-2008	137-009-0130	2-1-2008	Amend	3-1-2008
125-247-0293	7-2-2008	Repeal	8-1-2008	137-009-0140	2-1-2008	Amend	3-1-2008
125-247-0294	7-2-2008	Repeal	8-1-2008	137-009-0145	2-1-2008	Amend	3-1-2008
125-247-0295	7-2-2008	Amend	8-1-2008	137-009-0147	2-1-2008	Adopt	3-1-2008
125-247-0296	7-2-2008	Amend	8-1-2008	137-009-0150	2-1-2008	Amend	3-1-2008
125-247-0300	7-2-2008	Amend	8-1-2008	137-009-0155	2-1-2008	Amend	3-1-2008
125-247-0305	7-2-2008	Amend	8-1-2008	137-010-0030	4-22-2008	Amend	6-1-2008
125-247-0310	7-2-2008	Amend	8-1-2008	137-010-0033	4-22-2008	Amend	6-1-2008
125-247-0330	7-2-2008	Amend	8-1-2008	137-020-0015	1-2-2008	Amend	2-1-2008
125-247-0340	7-2-2008	Adopt	8-1-2008	137-020-0020	1-2-2008	Amend	2-1-2008
125-247-0400	7-2-2008	Amend	8-1-2008	137-020-0040	1-2-2008	Amend	2-1-2008
125-247-0410	7-2-2008	Amend	8-1-2008	137-020-0050	1-2-2008	Amend	2-1-2008
125-247-0430	7-2-2008	Amend	8-1-2008	137-045-0010	1-1-2008	Amend	2-1-2008
125-247-0525	7-2-2008	Amend	8-1-2008	137-045-0015	1-1-2008	Amend	2-1-2008
125-247-0550	7-2-2008	Amend	8-1-2008	137-045-0020	1-1-2008	Amend	2-1-2008
125-247-0575	7-2-2008	Amend	8-1-2008	137-045-0030	1-1-2008	Amend	2-1-2008
125-247-0600	7-2-2008	Amend	8-1-2008	137-045-0035	1-1-2008	Amend	2-1-2008
125-247-0610	7-2-2008	Amend	8-1-2008	137-045-0050	1-1-2008	Amend	2-1-2008
125-247-0691	7-2-2008	Amend	8-1-2008	137-045-0055	1-1-2008	Amend	2-1-2008
125-247-0700	7-2-2008	Amend	8-1-2008	137-045-0060	1-1-2008	Amend	2-1-2008
125-247-0710	7-2-2008	Amend	8-1-2008	137-045-0070	1-1-2008	Amend	2-1-2008
125-247-0730	7-2-2008	Amend	8-1-2008	137-045-0090	1-1-2008	Amend	2-1-2008
125-247-0731	7-2-2008	Amend	8-1-2008	137-046-0100	1-1-2008	Amend	2-1-2008
125-247-0750	7-2-2008	Amend	8-1-2008	137-046-0110	1-1-2008	Amend	2-1-2008
125-248-0100	7-2-2008	Amend	8-1-2008	137-046-0130	1-1-2008	Amend	2-1-2008
125-248-0130	7-2-2008	Amend	8-1-2008	137-047-0000	1-1-2008	Amend	2-1-2008
125-248-0200	7-2-2008	Amend	8-1-2008	137-047-0100	1-1-2008	Amend	2-1-2008
125-248-0210	7-2-2008	Amend	8-1-2008	137-047-0257	1-1-2008	Amend	2-1-2008
125-248-0220	7-2-2008	Amend	8-1-2008	137-047-0262	1-1-2008	Amend	2-1-2008
125-248-0240	7-2-2008	Amend	8-1-2008	137-047-0263	1-1-2008	Amend	2-1-2008
125-248-0250	7-2-2008	Amend	8-1-2008	137-047-0275	1-1-2008	Amend	2-1-2008
125-248-0300	7-2-2008	Amend	8-1-2008	137-047-0280	1-1-2008	Amend	2-1-2008
125-248-0340	7-2-2008	Amend	8-1-2008	137-047-0285	1-1-2008	Amend	2-1-2008
125-249-0100	7-2-2008	Amend	8-1-2008	137-047-0310	1-1-2008	Amend	2-1-2008
125-249-0140	7-2-2008	Amend	8-1-2008	137-047-0330	1-1-2008	Amend	2-1-2008
125-249-0150	7-2-2008	Amend	8-1-2008	137-047-0400	1-1-2008	Amend	2-1-2008
125-249-0160	7-2-2008	Amend	8-1-2008	137-047-0410	1-1-2008	Amend	2-1-2008
125-249-0200	7-2-2008	Amend	8-1-2008	137-047-0430	1-1-2008	Amend	2-1-2008
125-249-0210	7-2-2008	Amend	8-1-2008	137-047-0575	1-1-2008	Amend	2-1-2008
125-249-0220	7-2-2008	Amend	8-1-2008	137-047-0610	1-1-2008	Amend	2-1-2008

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137-048-0130	1-1-2008	Amend	2-1-2008	137-060-0250	1-18-2008	Amend	3-1-2008
137-048-0200	1-1-2008	Amend	2-1-2008	137-060-0260	1-18-2008	Amend	3-1-2008
137-048-0210	1-1-2008	Amend	2-1-2008	137-060-0300	1-18-2008	Amend	3-1-2008
137-048-0220	1-1-2008	Amend	2-1-2008	137-060-0310	1-18-2008	Amend	3-1-2008
137-048-0240	1-1-2008	Amend	2-1-2008	137-060-0330	1-18-2008	Amend	3-1-2008
137-048-0250	1-1-2008	Amend	2-1-2008	137-060-0340	1-18-2008	Amend	3-1-2008
137-048-0300	1-1-2008	Amend	2-1-2008	137-060-0350	1-18-2008	Amend	3-1-2008
137-048-0320	1-1-2008	Amend	2-1-2008	137-060-0350	7-24-2008	Amend	6-1-2008
137-049-0100	1-1-2008	Amend	2-1-2008	137-060-0360	1-18-2008	Amend	3-1-2008
137-049-0140	1-1-2008	Amend	2-1-2008	137-060-0360	7-24-2008	Amend	6-1-2008
137-049-0150	1-1-2008	Amend	2-1-2008	137-060-0400	1-18-2008	Amend	3-1-2008
137-049-0160	1-1-2008	Amend	2-1-2008	137-060-0410	1-18-2008	Amend	3-1-2008
137-049-0200	1-1-2008	Amend	2-1-2008	137-060-0430	1-18-2008	Amend	3-1-2008
137-049-0210	1-1-2008	Amend	2-1-2008	137-060-0440	1-18-2008	Amend	3-1-2008
137-049-0280	1-1-2008	Amend	2-1-2008	137-060-0450	1-18-2008	Amend	3-1-2008
137-049-0290	1-1-2008	Amend	2-1-2008	137-079-0170	4-1-2008	Amend	5-1-2008
137-049-0310	1-1-2008	Amend	2-1-2008	137-079-0200	4-1-2008	Amend	5-1-2008
137-049-0390	1-1-2008	Amend	2-1-2008	137-084-0001	12-11-2007	Amend	1-1-2008
137-049-0395	1-1-2008	Amend	2-1-2008	137-084-0005	12-11-2007	Amend	1-1-2008
137-049-0630	1-1-2008	Amend	2-1-2008	137-084-0010	12-11-2007	Amend	1-1-2008
137-049-0645	1-1-2008	Amend	2-1-2008	137-084-0020	12-11-2007	Amend	1-1-2008
137-049-0860	1-1-2008	Amend	2-1-2008	137-084-0500	12-11-2007	Amend	1-1-2008
137-055-1060	7-1-2008	Amend	8-1-2008	141-014-0070	10-15-2008	Repeal	11-1-2008
137-055-1070	7-1-2008	Amend	8-1-2008	141-014-0075	10-15-2008	Repeal	11-1-2008
137-055-2160	7-1-2008	Amend	8-1-2008	141-014-0080	10-15-2008	Repeal	11-1-2008
137-055-3020	1-2-2008	Amend(T)	2-1-2008	141-014-0085	10-15-2008	Repeal	11-1-2008
137-055-3020	4-1-2008	Amend	5-1-2008	141-014-0090	10-15-2008	Repeal	11-1-2008
137-055-3060	1-2-2008	Amend(T)	2-1-2008	141-014-0095	10-15-2008	Repeal	11-1-2008
137-055-3060	4-1-2008	Amend	5-1-2008	141-014-0100	10-15-2008	Repeal	11-1-2008
137-055-3080	1-2-2008	Amend(T)	2-1-2008	141-014-0105	10-15-2008	Repeal	11-1-2008
137-055-3080	4-1-2008	Amend	5-1-2008	141-014-0110	10-15-2008	Repeal	11-1-2008
137-055-3100	1-2-2008	Amend(T)	2-1-2008	141-014-0115	10-15-2008	Repeal	11-1-2008
137-055-3100	4-1-2008	Amend	5-1-2008	141-014-0120	10-15-2008	Repeal	11-1-2008
137-055-3140	1-2-2008	Amend(T)	2-1-2008	141-014-0200	10-15-2008	Adopt	11-1-2008
137-055-3140	4-1-2008	Amend	5-1-2008	141-014-0210	10-15-2008	Adopt	11-1-2008
137-055-3420	7-15-2008	Amend(T)	8-1-2008	141-014-0220	10-15-2008	Adopt	11-1-2008
137-055-3420	10-1-2008	Amend(T)	11-1-2008	141-014-0230	10-15-2008	Adopt	11-1-2008
137-055-3420	10-7-2008	Amend(T)	11-1-2008	141-014-0240	10-15-2008	Adopt	11-1-2008
137-055-3420(T)	10-7-2008	Suspend	11-1-2008	141-014-0250	10-15-2008	Adopt	11-1-2008
137-055-4540	10-1-2008	Amend	11-1-2008	141-014-0260	10-15-2008	Adopt	11-1-2008
137-055-4560	4-1-2008	Amend	5-1-2008	141-014-0270	10-15-2008	Adopt	11-1-2008
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137-055-6010	10-1-2008	Amend	11-1-2008	141-014-0300	10-15-2008	Adopt	11-1-2008
137-055-6022	10-1-2008	Amend	11-1-2008	141-014-0310	10-15-2008	Adopt	11-1-2008
137-055-6210	10-7-2008	Amend(T)	11-1-2008	141-014-0320	10-15-2008	Adopt	11-1-2008
137-060-0100	1-18-2008	Amend	3-1-2008	141-014-0330	10-15-2008	Adopt	11-1-2008
137-060-0110	1-18-2008	Amend	3-1-2008	141-014-0340	10-15-2008	Adopt	11-1-2008
137-060-0130	1-18-2008	Amend	3-1-2008	141-014-0350	10-15-2008	Adopt	11-1-2008
137-060-0140	1-18-2008	Amend	3-1-2008	141-014-0360	10-15-2008	Adopt	11-1-2008
137-060-0150	1-18-2008	Amend	3-1-2008	141-014-0370	10-15-2008	Adopt	11-1-2008
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137-060-0160	1-18-2008	Amend	3-1-2008	141-014-0390	10-15-2008	Adopt	11-1-2008
137-060-0160	7-24-2008	Amend	6-1-2008	141-014-0400	10-15-2008	Adopt	11-1-2008
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141-085-0010	1-1-2008	Amend	1-1-2008	141-089-0230	1-1-2008	Amend	1-1-2008
141-085-0015	1-1-2008	Amend	1-1-2008	141-089-0245	1-1-2008	Amend	1-1-2008
141-085-0018	1-1-2008	Amend	1-1-2008	141-089-0260	1-1-2008	Amend	1-1-2008
141-085-0020	1-1-2008	Amend	1-1-2008	141-089-0265	1-1-2008	Amend	1-1-2008
141-085-0021	1-1-2008	Repeal	1-1-2008	141-089-0280	1-1-2008	Amend	1-1-2008
141-085-0022	1-1-2008	Amend	1-1-2008	141-089-0285	1-1-2008	Amend	1-1-2008
141-085-0023	1-1-2008	Amend	1-1-2008	141-089-0290	1-1-2008	Amend	1-1-2008
141-085-0025	1-1-2008	Amend	1-1-2008	141-089-0295	1-1-2008	Amend	1-1-2008
141-085-0028	1-1-2008	Amend	1-1-2008	141-089-0300	1-1-2008	Amend	1-1-2008
141-085-0029	1-1-2008	Amend	1-1-2008	141-089-0302	1-1-2008	Adopt	1-1-2008
141-085-0034	1-1-2008	Amend	1-1-2008	141-089-0350	5-1-2008	Adopt	5-1-2008
141-085-0036	1-1-2008	Amend	1-1-2008	141-089-0355	5-1-2008	Adopt	5-1-2008
141-085-0064	1-1-2008	Amend	1-1-2008	141-089-0360	5-1-2008	Adopt	5-1-2008
141-085-0066	1-1-2008	Amend	1-1-2008	141-089-0365	5-1-2008	Adopt	5-1-2008
141-085-0068	1-1-2008	Adopt	1-1-2008	141-089-0370	5-1-2008	Adopt	5-1-2008
141-085-0070	1-1-2008	Amend	1-1-2008	141-089-0375	5-1-2008	Adopt	5-1-2008
141-085-0075	1-1-2008	Amend	1-1-2008	141-089-0380	5-1-2008	Adopt	5-1-2008
141-085-0079	1-1-2008	Amend	1-1-2008	141-089-0385	5-1-2008	Adopt	5-1-2008
141-085-0085	1-1-2008	Amend	1-1-2008	141-089-0390	5-1-2008	Adopt	5-1-2008
141-085-0090	1-1-2008	Amend	1-1-2008	141-089-0400	1-1-2008	Amend	1-1-2008
141-085-0095	1-1-2008	Amend	1-1-2008	141-089-0405	1-1-2008	Amend	1-1-2008
141-085-0096	1-1-2008	Amend	1-1-2008	141-089-0415	1-1-2008	Amend	1-1-2008
141-085-0115	1-1-2008	Amend	1-1-2008	141-089-0420	1-1-2008	Amend	1-1-2008
141-085-0121	1-1-2008	Amend	1-1-2008	141-089-0423	1-1-2008	Adopt	1-1-2008
141-085-0126	1-1-2008	Amend	1-1-2008	141-089-0500	1-1-2008	Amend	1-1-2008
141-085-0131	1-1-2008	Amend	1-1-2008	141-089-0505	1-1-2008	Amend	1-1-2008
141-085-0136	1-1-2008	Amend	1-1-2008	141-089-0515	1-1-2008	Amend	1-1-2008
141-085-0141	1-1-2008	Amend	1-1-2008	141-089-0520	1-1-2008	Amend	1-1-2008
141-085-0146	1-1-2008	Amend	1-1-2008	141-089-0550	1-1-2008	Amend	1-1-2008
141-085-0156	1-1-2008	Amend	1-1-2008	141-089-0555	1-1-2008	Amend	1-1-2008
141-085-0161	1-1-2008	Amend	1-1-2008	141-089-0560	1-1-2008	Amend	1-1-2008
141-085-0166	1-1-2008	Amend	1-1-2008	141-089-0565	1-1-2008	Amend	1-1-2008
141-085-0171	1-1-2008	Amend	1-1-2008	141-089-0570	1-1-2008	Amend	1-1-2008
141-085-0176	1-1-2008	Amend	1-1-2008	141-089-0572	1-1-2008	Adopt	1-1-2008
141-085-0256	1-1-2008	Amend	1-1-2008	141-089-0585	1-1-2008	Amend	1-1-2008
141-085-0257	1-1-2008	Amend	1-1-2008	141-089-0595	1-1-2008	Amend	1-1-2008
141-085-0421	1-1-2008	Amend	1-1-2008	141-089-0600	1-1-2008	Amend	1-1-2008
141-085-0425	1-1-2008	Amend	1-1-2008	141-089-0605	1-1-2008	Amend	1-1-2008
141-085-0430	1-1-2008	Amend	1-1-2008	141-089-0607	1-1-2008	Adopt	1-1-2008
141-089-0100	1-1-2008	Amend	1-1-2008	141-090-0005	1-1-2008	Amend	1-1-2008
141-089-0105	1-1-2008	Amend	1-1-2008	141-090-0010	1-1-2008	Amend	1-1-2008
141-089-0110	1-1-2008	Amend	1-1-2008	141-090-0015	1-1-2008	Amend	1-1-2008
141-089-0115	1-1-2008	Amend	1-1-2008	141-090-0020	1-1-2008	Amend	1-1-2008
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141-089-0135	1-1-2008	Amend	1-1-2008	141-090-0030	1-1-2008	Amend	1-1-2008
141-089-0140	1-1-2008	Amend	1-1-2008	141-090-0032	1-1-2008	Adopt	1-1-2008
141-089-0150	1-1-2008	Amend	1-1-2008	141-090-0035	1-1-2008	Amend	1-1-2008
141-089-0155	1-1-2008	Amend	1-1-2008	141-090-0040	1-1-2008	Amend	1-1-2008
141-089-0157	1-1-2008	Adopt	1-1-2008	141-090-0045	1-1-2008	Amend	1-1-2008
141-089-0170	1-1-2008	Amend	1-1-2008	141-090-0050	1-1-2008	Amend	1-1-2008
141-089-0175	1-1-2008	Amend	1-1-2008	141-090-0055	1-1-2008	Amend	1-1-2008
141-089-0180	1-1-2008	Amend	1-1-2008	141-102-0000	1-1-2008	Amend	1-1-2008
141-089-0185	1-1-2008	Amend	1-1-2008	141-102-0020	1-1-2008	Amend	1-1-2008
141-089-0190	1-1-2008	Amend	1-1-2008	141-102-0030	1-1-2008	Amend	1-1-2008
141-089-0192	1-1-2008	Adopt	1-1-2008	141-102-0045	1-1-2008	Repeal	1-1-2008
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141-122-0040	10-15-2008	Amend	11-1-2008	150-305.270(10)	1-1-2008	Amend	2-1-2008
141-122-0050	10-15-2008	Amend	11-1-2008	150-305.270(2)	8-31-2008	Repeal	10-1-2008
141-122-0060	10-15-2008	Amend	11-1-2008	150-305.270(4)-(A)	1-1-2008	Amend	2-1-2008
141-122-0070	10-15-2008	Amend	11-1-2008	150-305.992	1-1-2008	Amend	2-1-2008
141-122-0080	10-15-2008	Amend	11-1-2008	150-306.126(1)	8-31-2008	Amend	10-1-2008
141-122-0090	10-15-2008	Amend	11-1-2008	150-307.175	9-23-2008	Amend	11-1-2008
141-122-0100	10-15-2008	Amend	11-1-2008	150-307.262(2)	1-1-2008	Repeal	2-1-2008
141-122-0105	10-15-2008	Amend	11-1-2008	150-307.286	8-31-2008	Amend	10-1-2008
141-122-0110	10-15-2008	Amend	11-1-2008	150-307.289	8-31-2008	Amend	10-1-2008
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141-122-0130	10-15-2008	Adopt	11-1-2008	150-307.804	8-31-2008	Amend	10-1-2008
141-125-0100	10-15-2008	Amend	11-1-2008	150-308.146(8)	8-31-2008	Adopt	10-1-2008
141-125-0110	10-15-2008	Amend	11-1-2008	150-308.205-(G)	8-31-2008	Adopt	10-1-2008
141-125-0120	10-15-2008	Amend	11-1-2008	150-308.290-(A)	8-31-2008	Adopt	10-1-2008
141-125-0130	10-15-2008	Amend	11-1-2008	150-308.290(3)	8-31-2008	Repeal	10-1-2008
141-125-0140	10-15-2008	Amend	11-1-2008	150-308.290(5)	8-31-2008	Repeal	10-1-2008
141-125-0150	10-15-2008	Amend	11-1-2008	150-308.704	8-31-2008	Amend	10-1-2008
141-125-0160	10-15-2008	Amend	11-1-2008	150-308.712	8-31-2008	Amend	10-1-2008
141-125-0170	10-15-2008	Amend	11-1-2008	150-308.890	8-31-2008	Repeal	10-1-2008
141-125-0180	10-15-2008	Amend	11-1-2008	150-309.115(1)-(A)	1-1-2008	Repeal	2-1-2008
141-125-0190	10-15-2008	Amend	11-1-2008	150-311.205(1)(b)-(A)	8-31-2008	Amend	10-1-2008
141-125-0200	10-15-2008	Amend	11-1-2008	150-311.668(1)(a)-(A)	8-31-2008	Amend	10-1-2008
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141-125-0220	10-15-2008	Amend	11-1-2008	150-311.676-(B)	1-1-2008	Repeal	2-1-2008
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142-010-0020	4-14-2008	Amend	5-1-2008	150-311.689	1-1-2008	Amend	2-1-2008
142-010-0045	4-14-2008	Amend	5-1-2008	150-311.806-(A)	1-1-2008	Amend	2-1-2008
142-015-0000	4-14-2008	Adopt	5-1-2008	150-314.250	8-31-2008	Repeal	10-1-2008
142-015-0010	4-14-2008	Adopt	5-1-2008	150-314.258	1-1-2008	Adopt	2-1-2008
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150-181.534(9)	8-31-2008	Adopt	10-1-2008	150-314.280-(J)	1-1-2008	Amend	2-1-2008
150-181.534(9)-(A)	8-31-2008	Adopt	10-1-2008	150-314.280-(K)	1-1-2008	Amend	2-1-2008
150-181.534(9)-(B)	8-31-2008	Adopt	10-1-2008	150-314.280-(L)	1-1-2008	Amend	2-1-2008
150-181.534(9)-(C)	8-31-2008	Adopt	10-1-2008	150-314.308	1-1-2008	Adopt	2-1-2008
150-181.534(9)-(D)	8-31-2008	Adopt	10-1-2008	150-314.400(1)	8-31-2008	Amend	10-1-2008
150-181.534(9)-(E)	8-31-2008	Adopt	10-1-2008	150-314.403	9-23-2008	Adopt	11-1-2008
150-181.534(9)-(F)	8-31-2008	Adopt	10-1-2008	150-314.410(3)	8-31-2008	Renumber	10-1-2008
150-181.534(9)-(G)	8-31-2008	Adopt	10-1-2008	150-314.410(5)	8-31-2008	Renumber	10-1-2008
150-181.534(9)-(H)	8-31-2008	Adopt	10-1-2008	150-314.410(6)	8-31-2008	Renumber	10-1-2008
150-181.534(9)-(I)	8-31-2008	Adopt	10-1-2008	150-314.410(8)	8-31-2008	Renumber	10-1-2008
150-181.534(9)-(J)	8-31-2008	Adopt	10-1-2008	150-314.415(7)	1-1-2008	Amend	2-1-2008
150-181.534(9)-(K)	8-31-2008	Adopt	10-1-2008	150-314.425-(B)	1-1-2008	Adopt	2-1-2008
150-181.534(9)-(L)	8-31-2008	Adopt	10-1-2008	150-314.615-(D)	1-1-2008	Amend	2-1-2008
150-181.534(9)-(M)	8-31-2008	Adopt	10-1-2008	150-314.615-(E)	1-1-2008	Amend	2-1-2008
150-291.349	8-31-2008	Adopt	10-1-2008	150-314.665(4)	9-23-2008	Amend	11-1-2008
150-293.250(2)	2-15-2008	Amend	3-1-2008	150-315.262	1-1-2008	Amend	2-1-2008
150-294.381(3)	8-31-2008	Repeal	10-1-2008	150-315.354(5)	1-1-2008	Amend	2-1-2008
150-294.930(2)	8-31-2008	Repeal	10-1-2008	150-315.521	1-1-2008	Adopt	2-1-2008
150-305.145(3)	1-1-2008	Amend	2-1-2008	150-316.037	8-31-2008	Amend	10-1-2008

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150-316.119	8-31-2008	Adopt	10-1-2008	160-040-0307	8-1-2008	Amend	8-1-2008
150-316.127-(E)	1-1-2008	Amend	2-1-2008	160-040-0308	8-1-2008	Amend	8-1-2008
150-316.127(10)	1-1-2008	Adopt	2-1-2008	160-040-0309	8-1-2008	Amend	8-1-2008
150-316.587(5)(d)	8-31-2008	Amend	10-1-2008	160-040-0310	8-1-2008	Amend	8-1-2008
150-316.587(8)-(A)	8-31-2008	Amend	10-1-2008	160-040-0311	8-1-2008	Amend	8-1-2008
150-316.846	9-23-2008	Amend	11-1-2008	160-040-0312	8-1-2008	Amend	8-1-2008
150-316.NOTE	8-31-2008	Repeal	10-1-2008	160-040-0400	8-1-2008	Amend	8-1-2008
150-317.010	5-5-2008	Adopt	6-1-2008	160-040-0401	8-1-2008	Amend	8-1-2008
150-317.092	1-1-2008	Adopt	2-1-2008	160-040-0402	8-1-2008	Amend	8-1-2008
150-317.368(1)	8-31-2008	Repeal	10-1-2008	160-040-0403	8-1-2008	Amend	8-1-2008
150-317.368(6)	8-31-2008	Repeal	10-1-2008	160-040-0404	8-1-2008	Adopt	8-1-2008
150-317.660(2)	8-31-2008	Amend	10-1-2008	160-040-0500	8-1-2008	Amend	8-1-2008
150-317.705(3)(a)	1-1-2008	Amend	2-1-2008	160-040-0501	8-1-2008	Amend	8-1-2008
150-317.705(3)(b)	1-1-2008	Amend	2-1-2008	160-040-0502	8-1-2008	Amend	8-1-2008
150-320.305	9-23-2008	Amend	11-1-2008	160-040-0503	8-1-2008	Amend	8-1-2008
150-320.308	8-31-2008	Adopt	10-1-2008	160-040-0504	8-1-2008	Amend	8-1-2008
150-321.307(4)	1-1-2008	Repeal	2-1-2008	160-040-0505	8-1-2008	Adopt	8-1-2008
150-321.485(4)	1-1-2008	Repeal	2-1-2008	160-040-0506	8-1-2008	Adopt	8-1-2008
150-323.320(1)	8-31-2008	Renumber	10-1-2008	160-050-0180	1-15-2008	Amend	2-1-2008
150-323.320(1)(b)	2-4-2008	Adopt(T)	3-1-2008	160-050-0190	1-15-2008	Amend	2-1-2008
150-323.320(2)	8-31-2008	Am. & Ren.	10-1-2008	160-050-0200	1-15-2008	Amend	2-1-2008
150-323.505(2)	8-31-2008	Adopt	10-1-2008	160-050-0210	1-15-2008	Amend	2-1-2008
150-457.440(9)	8-31-2008	Amend	10-1-2008	160-050-0215	1-15-2008	Adopt	2-1-2008
151-001-0005	12-13-2007	Amend(T)	1-1-2008	160-050-0220	1-15-2008	Amend	2-1-2008
151-001-0005	4-14-2008	Amend	5-1-2008	160-050-0230	1-15-2008	Amend	2-1-2008
151-001-0010	12-13-2007	Amend(T)	1-1-2008	160-050-0240	1-15-2008	Amend	2-1-2008
151-001-0010	4-14-2008	Amend	5-1-2008	160-050-0250	1-15-2008	Amend	2-1-2008
151-001-0015	4-14-2008	Amend	5-1-2008	160-050-0280	1-15-2008	Amend	2-1-2008
151-020-0045	12-13-2007	Amend(T)	1-1-2008	160-100-0020	10-15-2008	Amend	10-1-2008
151-020-0045	4-14-2008	Amend	5-1-2008	160-100-0030	10-15-2008	Amend	10-1-2008
160-005-0005	5-1-2008	Amend	5-1-2008	160-100-0200	1-15-2008	Amend	1-1-2008
160-005-0007	5-1-2008	Adopt	5-1-2008	160-100-0210	5-1-2008	Amend	5-1-2008
160-005-0010	5-1-2008	Amend	5-1-2008	161-001-0005	8-13-2008	Amend	9-1-2008
160-010-0600	1-1-2008	Adopt	1-1-2008	161-002-0000	5-13-2008	Amend	6-1-2008
160-010-0610	1-1-2008	Adopt	1-1-2008	161-002-0000	8-13-2008	Amend	9-1-2008
160-010-0620	1-1-2008	Adopt	1-1-2008	161-003-0020	5-13-2008	Amend	6-1-2008
160-010-0630	1-1-2008	Adopt	1-1-2008	161-006-0140	8-13-2008	Amend	9-1-2008
160-040-0100	8-1-2008	Amend	8-1-2008	161-006-0175	5-13-2008	Amend	6-1-2008
160-040-0101	8-1-2008	Amend	8-1-2008	161-006-0175	8-13-2008	Amend	9-1-2008
160-040-0102	8-1-2008	Amend	8-1-2008	161-008-0040	8-13-2008	Amend	9-1-2008
160-040-0103	8-1-2008	Amend	8-1-2008	161-010-0010	5-13-2008	Amend	6-1-2008
160-040-0104	8-1-2008	Amend	8-1-2008	161-010-0010	8-13-2008	Amend	9-1-2008
160-040-0105	8-1-2008	Amend	8-1-2008	161-010-0020	8-13-2008	Amend	9-1-2008
160-040-0106	8-1-2008	Amend	8-1-2008	161-010-0025	8-13-2008	Amend	9-1-2008
160-040-0107	8-1-2008	Amend	8-1-2008	161-010-0035	5-13-2008	Amend	6-1-2008
160-040-0200	8-1-2008	Amend	8-1-2008	161-010-0035	8-13-2008	Amend	9-1-2008
160-040-0201	8-1-2008	Amend	8-1-2008	161-010-0045	5-13-2008	Amend	6-1-2008
160-040-0202	8-1-2008	Amend	8-1-2008	161-010-0045	8-13-2008	Amend	9-1-2008
160-040-0203	8-1-2008	Amend	8-1-2008	161-010-0055	5-13-2008	Amend	6-1-2008
160-040-0204	8-1-2008	Adopt	8-1-2008	161-010-0055	8-13-2008	Amend	9-1-2008
160-040-0205	8-1-2008	Adopt	8-1-2008	161-010-0080	5-13-2008	Amend	6-1-2008
160-040-0300	8-1-2008	Amend	8-1-2008	161-010-0080	8-6-2008	Amend(T)	9-1-2008
160-040-0301	8-1-2008	Amend	8-1-2008	161-010-0080	8-13-2008	Amend	9-1-2008
160-040-0302	8-1-2008	Amend	8-1-2008	161-010-0085	8-6-2008	Amend(T)	9-1-2008
160-040-0303	8-1-2008	Amend	8-1-2008	161-015-0025	8-13-2008	Adopt	9-1-2008
160-040-0304	8-1-2008	Amend	8-1-2008	161-015-0030	8-13-2008	Amend	9-1-2008
160-040-0305	8-1-2008	Amend	8-1-2008	161-020-0015	8-13-2008	Amend	9-1-2008

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161-020-0110	5-13-2008	Amend	6-1-2008	167-050-0100	7-16-2008	Adopt	9-1-2008
161-020-0130	8-13-2008	Amend	9-1-2008	167-050-0110	7-16-2008	Adopt	9-1-2008
161-020-0150	8-13-2008	Amend	9-1-2008	167-050-0120	7-16-2008	Adopt	9-1-2008
161-025-0005	8-13-2008	Amend	9-1-2008	167-050-0130	7-16-2008	Adopt	9-1-2008
161-025-0010	8-13-2008	Amend	9-1-2008	167-050-0140	7-16-2008	Adopt	9-1-2008
161-025-0025	5-13-2008	Amend	6-1-2008	167-050-0150	7-16-2008	Adopt	9-1-2008
161-025-0030	5-13-2008	Amend	6-1-2008	167-050-0160	7-16-2008	Adopt	9-1-2008
161-025-0060	5-13-2008	Amend	6-1-2008	167-050-0170	7-16-2008	Adopt	9-1-2008
161-025-0060	8-13-2008	Amend	9-1-2008	167-050-0180	7-16-2008	Adopt	9-1-2008
161-050-0000	5-13-2008	Amend	6-1-2008	167-050-0190	7-16-2008	Adopt	9-1-2008
165-002-0020	12-31-2007	Amend	2-1-2008	167-050-0200	7-16-2008	Adopt	9-1-2008
165-004-0005	12-31-2007	Amend	2-1-2008	167-050-0210	7-16-2008	Adopt	9-1-2008
165-004-0020	12-31-2007	Amend	2-1-2008	167-050-0220	7-16-2008	Adopt	9-1-2008
165-005-0130	12-31-2007	Amend	2-1-2008	167-055-0100	7-16-2008	Adopt	9-1-2008
165-007-0030	12-31-2007	Amend	2-1-2008	167-060-0100	7-16-2008	Adopt	9-1-2008
165-010-0005	12-31-2007	Amend	2-1-2008	167-060-0110	7-16-2008	Adopt	9-1-2008
165-010-0085	12-31-2007	Adopt	2-1-2008	167-060-0120	7-16-2008	Adopt	9-1-2008
165-010-0110	8-12-2008	Amend	9-1-2008	170-002-0010	3-3-2008	Adopt	4-1-2008
165-010-1001	5-2-2008	Adopt(T)	6-1-2008	170-030-0005	7-1-2008	Repeal	8-1-2008
165-012-0005	12-31-2007	Amend	2-1-2008	170-030-0010	7-1-2008	Repeal	8-1-2008
165-012-1020	1-29-2008	Adopt(T)	3-1-2008	170-030-0015	7-1-2008	Repeal	8-1-2008
165-013-0010	12-31-2007	Amend	2-1-2008	170-030-0020	7-1-2008	Repeal	8-1-2008
165-013-0020	12-31-2007	Amend	2-1-2008	170-030-0025	7-1-2008	Repeal	8-1-2008
165-014-0005	12-31-2007	Amend	2-1-2008	170-030-0030	7-1-2008	Repeal	8-1-2008
165-014-0027	12-31-2007	Repeal	2-1-2008	170-030-0045	7-1-2008	Repeal	8-1-2008
165-014-0030	12-31-2007	Amend	2-1-2008	170-030-0050	7-1-2008	Repeal	8-1-2008
165-014-0031	12-31-2007	Adopt	2-1-2008	170-030-0055	7-1-2008	Repeal	8-1-2008
165-014-0032	12-31-2007	Adopt	2-1-2008	170-040-0020	7-1-2008	Adopt	8-1-2008
165-014-0100	12-31-2007	Adopt	2-1-2008	170-040-0030	7-1-2008	Adopt	8-1-2008
165-014-0100	3-14-2008	Amend(T)	4-1-2008	170-040-0040	7-1-2008	Adopt	8-1-2008
165-014-0100	5-2-2008	Amend(T)	6-1-2008	170-040-0050	7-1-2008	Adopt	8-1-2008
165-014-0100	8-12-2008	Amend	9-1-2008	170-040-0060	7-1-2008	Adopt	8-1-2008
165-014-0110	12-31-2007	Amend	2-1-2008	170-040-0070	7-1-2008	Adopt	8-1-2008
165-014-0260	12-31-2007	Amend	2-1-2008	170-040-0080	7-1-2008	Adopt	8-1-2008
165-014-0270	12-31-2007	Amend	2-1-2008	170-040-0090	10-2-2008	Adopt(T)	11-1-2008
165-014-0275	12-31-2007	Adopt	2-1-2008	170-061-0200	12-27-2007	Adopt	2-1-2008
165-014-0280	12-3-2007	Adopt	1-1-2008	170-071-0005	11-20-2007	Amend(T)	1-1-2008
165-020-0005	12-31-2007	Amend	2-1-2008	170-071-0005	7-9-2008	Amend(T)	8-1-2008
165-020-0020	12-31-2007	Amend	2-1-2008	170-071-0005	8-28-2008	Amend	10-1-2008
165-020-0021	12-31-2007	Adopt	2-1-2008	177-010-0003	7-1-2008	Amend	8-1-2008
165-020-0035	12-31-2007	Amend	2-1-2008	177-010-0007	7-1-2008	Amend	8-1-2008
165-020-0045	12-31-2007	Repeal	2-1-2008	177-010-0009	7-1-2008	Amend	8-1-2008
165-020-0050	12-31-2007	Amend	2-1-2008	177-010-0011	7-1-2008	Adopt	8-1-2008
165-020-0055	12-31-2007	Amend	2-1-2008	177-010-0025	7-1-2008	Amend	8-1-2008
165-020-2021	2-21-2008	Adopt(T)	4-1-2008	177-010-0045	7-1-2008	Amend	8-1-2008
165-021-0000	12-31-2007	Repeal	2-1-2008	177-010-0050	7-1-2008	Amend	8-1-2008
165-021-0005	12-31-2007	Repeal	2-1-2008	177-010-0080	7-1-2008	Amend	8-1-2008
165-021-0010	12-31-2007	Repeal	2-1-2008	177-010-0085	7-1-2008	Amend	8-1-2008
165-100-0000	4-1-2008	Adopt(T)	5-1-2008	177-010-0090	7-1-2008	Amend	8-1-2008
165-100-0005	4-1-2008	Adopt(T)	5-1-2008	177-010-0110	7-1-2008	Amend	8-1-2008
165-100-0010	4-1-2008	Adopt(T)	5-1-2008	177-010-0120	7-1-2008	Amend	8-1-2008
165-100-0015	4-1-2008	Adopt(T)	5-1-2008	177-040-0003	6-2-2008	Amend	7-1-2008
165-100-0020	4-1-2008	Adopt(T)	5-1-2008	177-040-0051	6-2-2008	Amend	7-1-2008
165-100-0025	4-1-2008	Adopt(T)	5-1-2008	177-046-0010	7-1-2008	Amend	8-1-2008
165-100-0030	4-1-2008	Adopt(T)	5-1-2008	177-046-0015	7-1-2008	Adopt	8-1-2008
166-150-0205	5-30-2008	Amend	7-1-2008	177-046-0020	7-1-2008	Amend	8-1-2008
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177-046-0060	7-1-2008	Amend	8-1-2008	230-010-0005	7-1-2008	Amend	7-1-2008
177-046-0070	7-1-2008	Amend	8-1-2008	230-010-0010	7-1-2008	Repeal	7-1-2008
177-046-0080	7-1-2008	Amend	8-1-2008	230-010-0016	7-1-2008	Repeal	7-1-2008
177-046-0090	7-1-2008	Amend	8-1-2008	230-010-0030	7-1-2008	Repeal	7-1-2008
177-046-0100	7-1-2008	Amend	8-1-2008	230-010-0040	7-1-2008	Am. & Ren.	7-1-2008
177-046-0110	3-31-2008	Amend	5-1-2008	230-010-0050	7-1-2008	Repeal	7-1-2008
177-046-0110(T)	3-31-2008	Repeal	5-1-2008	230-020-0005	7-1-2008	Repeal	7-1-2008
177-046-0120	7-1-2008	Amend	8-1-2008	230-020-0010	7-1-2008	Amend	7-1-2008
177-046-0130	7-1-2008	Amend	8-1-2008	230-020-0020	7-1-2008	Repeal	7-1-2008
177-046-0140	7-1-2008	Amend	8-1-2008	230-020-0030	7-1-2008	Amend	7-1-2008
177-046-0150	7-1-2008	Amend	8-1-2008	230-020-0040	7-1-2008	Amend	7-1-2008
177-046-0160	7-1-2008	Amend	8-1-2008	230-020-0050	7-1-2008	Repeal	7-1-2008
177-046-0170	3-31-2008	Amend	5-1-2008	230-020-0060	7-1-2008	Amend	7-1-2008
177-046-0170	7-1-2008	Amend	8-1-2008	230-020-0070	7-1-2008	Amend	7-1-2008
177-046-0170(T)	3-31-2008	Repeal	5-1-2008	230-020-0080	7-1-2008	Amend	7-1-2008
177-050-0002	3-31-2008	Amend	5-1-2008	230-020-0090	7-1-2008	Amend	7-1-2008
177-050-0002(T)	3-31-2008	Repeal	5-1-2008	230-020-0110	7-1-2008	Amend	7-1-2008
177-050-0020	3-31-2008	Amend	5-1-2008	230-020-0170	7-1-2008	Amend	7-1-2008
177-050-0020(T)	3-31-2008	Repeal	5-1-2008	230-020-0190	7-1-2008	Amend	7-1-2008
177-050-0024	3-31-2008	Amend	5-1-2008	230-020-0195	7-1-2008	Adopt	7-1-2008
177-050-0024(T)	3-31-2008	Repeal	5-1-2008	230-020-0200	7-1-2008	Amend	7-1-2008
177-050-0025	3-31-2008	Amend	5-1-2008	230-020-0210	7-1-2008	Amend	7-1-2008
177-050-0025(T)	3-31-2008	Repeal	5-1-2008	230-020-0215	7-1-2008	Adopt	7-1-2008
177-050-0027	3-31-2008	Amend	5-1-2008	230-020-0220	7-1-2008	Repeal	7-1-2008
177-050-0027(T)	3-31-2008	Repeal	5-1-2008	230-020-0230	7-1-2008	Repeal	7-1-2008
177-050-0037	3-31-2008	Amend	5-1-2008	230-020-0240	7-1-2008	Amend	7-1-2008
177-050-0037(T)	3-31-2008	Repeal	5-1-2008	230-020-0250	7-1-2008	Repeal	7-1-2008
177-050-0070	3-31-2008	Amend	5-1-2008	230-020-0300	7-1-2008	Amend	7-1-2008
177-050-0070(T)	3-31-2008	Repeal	5-1-2008	230-020-0310	7-1-2008	Amend	7-1-2008
199-005-0005	3-7-2008	Adopt	4-1-2008	230-020-0320	7-1-2008	Amend	7-1-2008
199-005-0010	3-7-2008	Adopt	4-1-2008	230-020-0330	7-1-2008	Amend	7-1-2008
199-005-0015	3-7-2008	Adopt	4-1-2008	230-020-0405	7-1-2008	Amend	7-1-2008
199-005-0020	3-7-2008	Adopt	4-1-2008	230-020-0410	7-1-2008	Amend	7-1-2008
199-005-0025	3-7-2008	Adopt	4-1-2008	230-020-0440	7-1-2008	Repeal	7-1-2008
199-005-0030	3-7-2008	Adopt	4-1-2008	230-020-0450	7-1-2008	Amend	7-1-2008
199-005-0035	3-7-2008	Adopt	4-1-2008	230-020-0470	7-1-2008	Amend	7-1-2008
199-010-0068	1-2-2008	Adopt(T)	2-1-2008	230-020-0480	7-1-2008	Amend	7-1-2008
199-010-0075	3-7-2008	Amend(T)	4-1-2008	230-050-0000	7-1-2008	Repeal	7-1-2008
199-010-0095	3-7-2008	Amend(T)	4-1-2008	230-050-0005	7-1-2008	Repeal	7-1-2008
199-020-0005	3-7-2008	Suspend	4-1-2008	230-130-0000	7-1-2008	Repeal	7-1-2008
199-020-0007	3-7-2008	Adopt(T)	4-1-2008	230-130-0005	7-1-2008	Repeal	7-1-2008
213-001-0010	4-12-2008	Adopt	2-1-2008	230-130-0010	7-1-2008	Repeal	7-1-2008
213-003-0001	1-1-2008	Amend	2-1-2008	230-130-0020	7-1-2008	Repeal	7-1-2008
213-017-0002	1-1-2008	Amend	2-1-2008	230-130-0030	7-1-2008	Repeal	7-1-2008
213-017-0003	1-1-2008	Amend	2-1-2008	230-130-0040	7-1-2008	Repeal	7-1-2008
213-017-0004	1-1-2008	Amend	2-1-2008	230-130-0050	7-1-2008	Repeal	7-1-2008
213-017-0006	1-1-2008	Amend	2-1-2008	230-130-0060	7-1-2008	Repeal	7-1-2008
213-017-0007	1-1-2008	Amend	2-1-2008	230-130-0070	7-1-2008	Repeal	7-1-2008
213-017-0007	10-9-2008	Amend	11-1-2008	230-130-0080	7-1-2008	Repeal	7-1-2008
213-017-0008	1-1-2008	Amend	2-1-2008	230-130-0090	7-1-2008	Repeal	7-1-2008
213-017-0009	1-1-2008	Amend	2-1-2008	230-130-0100	7-1-2008	Repeal	7-1-2008
213-017-0010	1-1-2008	Amend	2-1-2008	230-130-0110	7-1-2008	Repeal	7-1-2008
213-018-0050	1-1-2008	Amend	2-1-2008	230-130-0120	7-1-2008	Repeal	7-1-2008
213-018-0068	1-1-2008	Adopt	2-1-2008	230-130-0140	7-1-2008	Repeal	7-1-2008
230-001-0000	7-1-2008	Amend	7-1-2008	230-130-0150	7-1-2008	Repeal	7-1-2008
230-001-0005	7-1-2008	Amend	7-1-2008	230-130-0160	7-1-2008	Repeal	7-1-2008

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230-130-0170	7-1-2008	Repeal	7-1-2008	259-013-0290	10-15-2008	Adopt	11-1-2008
230-130-0180	7-1-2008	Repeal	7-1-2008	259-013-0300	10-15-2008	Adopt	11-1-2008
230-130-0190	7-1-2008	Repeal	7-1-2008	259-020-0040	10-15-2008	Amend	11-1-2008
230-130-0200	7-1-2008	Repeal	7-1-2008	259-060-0010	4-15-2008	Amend	5-1-2008
230-130-0220	7-1-2008	Repeal	7-1-2008	259-060-0020	10-15-2008	Amend	11-1-2008
230-130-0230	7-1-2008	Repeal	7-1-2008	259-060-0060	4-15-2008	Amend	5-1-2008
230-140-0000	1-29-2008	Adopt(T)	3-1-2008	259-060-0070	7-15-2008	Amend	8-1-2008
230-140-0000	7-1-2008	Adopt	7-1-2008	259-060-0120	4-15-2008	Amend	5-1-2008
230-140-0010	1-29-2008	Adopt(T)	3-1-2008	259-060-0130	4-15-2008	Amend	5-1-2008
230-140-0010(T)	7-1-2008	Repeal	7-1-2008	259-060-0135	4-15-2008	Amend	5-1-2008
230-140-0020	1-29-2008	Adopt(T)	3-1-2008	259-060-0450	4-15-2008	Amend	5-1-2008
230-140-0020	7-1-2008	Adopt	7-1-2008	259-060-0500	4-15-2008	Amend	5-1-2008
230-140-0030	1-29-2008	Adopt(T)	3-1-2008	259-061-0015	4-15-2008	Amend	5-1-2008
230-140-0030	7-1-2008	Adopt	7-1-2008	259-061-0040	5-15-2008	Amend(T)	6-1-2008
230-140-0040	1-29-2008	Adopt(T)	3-1-2008	259-061-0040	7-15-2008	Amend	8-1-2008
230-140-0040	7-1-2008	Adopt	7-1-2008	259-061-0040(T)	7-15-2008	Repeal	8-1-2008
250-010-0075	12-10-2007	Adopt(T)	1-1-2008	259-061-0090	5-15-2008	Amend(T)	6-1-2008
250-010-0075	5-1-2008	Adopt	5-1-2008	259-061-0090	7-15-2008	Amend	8-1-2008
250-010-0075(T)	5-1-2008	Repeal	5-1-2008	259-061-0090(T)	7-15-2008	Repeal	8-1-2008
250-015-0001	5-7-2008	Amend(T)	6-1-2008	259-061-0230	5-15-2008	Amend(T)	6-1-2008
250-015-0003	5-7-2008	Adopt(T)	6-1-2008	259-061-0230	7-15-2008	Amend	8-1-2008
250-015-0011	7-17-2008	Amend(T)	9-1-2008	259-061-0230(T)	7-15-2008	Repeal	8-1-2008
250-020-0032	7-11-2008	Amend	8-1-2008	259-070-0001	10-15-2008	Amend	11-1-2008
250-020-0073	7-11-2008	Amend	8-1-2008	259-070-0005	10-15-2008	Amend	11-1-2008
250-020-0102	4-26-2008	Amend	5-1-2008	259-070-0010	10-15-2008	Amend	11-1-2008
250-020-0221	1-15-2008	Amend	2-1-2008	274-001-0005	3-25-2008	Amend	5-1-2008
255-060-0011	1-11-2008	Amend	2-1-2008	274-012-0001	1-7-2008	Amend(T)	2-1-2008
255-060-0011	9-12-2008	Amend	10-1-2008	274-012-0001	2-22-2008	Amend	4-1-2008
255-060-0016	9-12-2008	Amend	10-1-2008	274-012-0100	1-7-2008	Amend(T)	2-1-2008
255-070-0003	4-9-2008	Amend	5-1-2008	274-012-0100	2-22-2008	Amend	4-1-2008
259-008-0010	1-15-2008	Amend(T)	2-1-2008	274-012-0120	1-7-2008	Amend(T)	2-1-2008
259-008-0010	4-15-2008	Amend	5-1-2008	274-012-0120	2-22-2008	Amend	4-1-2008
259-008-0010(T)	1-15-2008	Suspend	2-1-2008	274-013-0000	10-1-2008	Adopt	11-1-2008
259-008-0010(T)	4-15-2008	Repeal	5-1-2008	274-013-0010	10-1-2008	Adopt	11-1-2008
259-008-0011	4-15-2008	Amend	5-1-2008	274-013-0020	10-1-2008	Adopt	11-1-2008
259-008-0025	7-15-2008	Amend	8-1-2008	274-013-0030	10-1-2008	Adopt	11-1-2008
259-008-0025	10-15-2008	Amend	11-1-2008	274-013-0040	10-1-2008	Adopt	11-1-2008
259-008-0045	7-15-2008	Amend	8-1-2008	274-013-0050	10-1-2008	Adopt	11-1-2008
259-008-0060	1-15-2008	Amend	2-1-2008	274-013-0060	10-1-2008	Adopt	11-1-2008
259-008-0060	7-15-2008	Amend	8-1-2008	274-013-0070	10-1-2008	Adopt	11-1-2008
259-008-0064	10-15-2008	Amend	11-1-2008	274-015-0005	2-22-2008	Repeal	4-1-2008
259-008-0070	10-15-2008	Amend	11-1-2008	274-025-0030	2-22-2008	Amend	4-1-2008
259-008-0200	8-15-2008	Adopt	9-1-2008	274-030-0500	1-1-2008	Amend	2-1-2008
259-008-0220	8-15-2008	Adopt	9-1-2008	274-030-0500	2-4-2008	Amend	3-1-2008
259-008-0250	8-15-2008	Adopt	9-1-2008	274-030-0500(T)	1-1-2008	Repeal	2-1-2008
259-009-0005	7-15-2008	Amend	8-1-2008	274-030-0505	1-1-2008	Amend	2-1-2008
259-009-0062	7-15-2008	Amend	8-1-2008	274-030-0505(T)	1-1-2008	Repeal	2-1-2008
259-009-0070	1-15-2008	Amend	2-1-2008	274-030-0506	1-1-2008	Amend	2-1-2008
259-013-0000	10-15-2008	Adopt	11-1-2008	274-030-0506(T)	1-1-2008	Repeal	2-1-2008
259-013-0005	10-15-2008	Adopt	11-1-2008	274-030-0510	1-1-2008	Amend	2-1-2008
259-013-0220	10-15-2008	Adopt	11-1-2008	274-030-0510(T)	1-1-2008	Repeal	2-1-2008
259-013-0230	10-15-2008	Adopt	11-1-2008	274-030-0515	1-1-2008	Amend	2-1-2008
259-013-0235	10-15-2008	Adopt	11-1-2008	274-030-0520	1-1-2008	Amend	2-1-2008
259-013-0240	10-15-2008	Adopt	11-1-2008	274-030-0520(T)	1-1-2008	Repeal	2-1-2008
259-013-0250	10-15-2008	Adopt	11-1-2008	274-030-0535	1-1-2008	Amend	2-1-2008
259-013-0260	10-15-2008	Adopt	11-1-2008	274-030-0545	1-1-2008	Amend	2-1-2008
259-013-0270	10-15-2008	Adopt	11-1-2008	274-030-0545(T)	1-1-2008	Repeal	2-1-2008
259-013-0280	10-15-2008	Adopt	11-1-2008	274-030-0550	1-1-2008	Amend	2-1-2008

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274-030-0550(T)	1-1-2008	Repeal	2-1-2008	291-026-0140	3-4-2008	Adopt(T)	4-1-2008
274-030-0555	1-1-2008	Amend	2-1-2008	291-026-0140	8-29-2008	Adopt	10-1-2008
274-030-0555(T)	1-1-2008	Repeal	2-1-2008	291-041-0010	2-4-2008	Amend	3-1-2008
274-030-0560	1-1-2008	Amend	2-1-2008	291-041-0015	2-4-2008	Amend	3-1-2008
274-030-0560(T)	1-1-2008	Repeal	2-1-2008	291-041-0016	2-4-2008	Amend	3-1-2008
274-030-0565	1-1-2008	Amend	2-1-2008	291-041-0017	2-4-2008	Adopt	3-1-2008
274-030-0565(T)	1-1-2008	Repeal	2-1-2008	291-041-0020	2-4-2008	Amend	3-1-2008
274-030-0570	1-1-2008	Amend	2-1-2008	291-041-0030	2-4-2008	Amend	3-1-2008
274-030-0570(T)	1-1-2008	Repeal	2-1-2008	291-041-0035	2-4-2008	Amend	3-1-2008
274-030-0575	1-1-2008	Amend	2-1-2008	291-041-0040	2-4-2008	Repeal	3-1-2008
274-030-0575(T)	1-1-2008	Repeal	2-1-2008	291-042-0005	7-1-2008	Amend(T)	8-1-2008
274-030-0600	1-1-2008	Amend	2-1-2008	291-042-0010	7-1-2008	Amend(T)	8-1-2008
274-030-0600(T)	1-1-2008	Repeal	2-1-2008	291-042-0011	7-1-2008	Amend(T)	8-1-2008
274-030-0602	1-1-2008	Adopt	2-1-2008	291-042-0015	7-1-2008	Amend(T)	8-1-2008
274-030-0602(T)	1-1-2008	Repeal	2-1-2008	291-042-0025	7-1-2008	Amend(T)	8-1-2008
274-030-0605	1-1-2008	Repeal	2-1-2008	291-042-0035	7-1-2008	Amend(T)	8-1-2008
274-030-0610	1-1-2008	Amend	2-1-2008	291-042-0045	7-1-2008	Suspend	8-1-2008
274-030-0610(T)	1-1-2008	Repeal	2-1-2008	291-046-0005	7-21-2008	Amend	9-1-2008
274-030-0620	1-1-2008	Amend	2-1-2008	291-046-0010	7-21-2008	Amend	9-1-2008
274-030-0620(T)	1-1-2008	Repeal	2-1-2008	291-046-0014	7-21-2008	Adopt	9-1-2008
274-030-0630	1-1-2008	Amend	2-1-2008	291-046-0020	7-21-2008	Amend	9-1-2008
274-030-0630(T)	1-1-2008	Repeal	2-1-2008	291-046-0025	7-21-2008	Amend	9-1-2008
274-030-0640	1-1-2008	Amend	2-1-2008	291-046-0030	7-21-2008	Amend	9-1-2008
274-030-0640(T)	1-1-2008	Repeal	2-1-2008	291-046-0035	7-21-2008	Amend	9-1-2008
274-045-0060	2-22-2008	Amend	4-1-2008	291-046-0040	7-21-2008	Amend	9-1-2008
274-045-0240	2-22-2008	Amend	4-1-2008	291-046-0045	7-21-2008	Amend	9-1-2008
291-011-0010	4-1-2008	Amend(T)	5-1-2008	291-046-0050	7-21-2008	Amend	9-1-2008
291-013-0010	8-7-2008	Amend	9-1-2008	291-046-0055	7-21-2008	Amend	9-1-2008
291-013-0070	8-7-2008	Amend	9-1-2008	291-046-0060	7-21-2008	Amend	9-1-2008
291-013-0100	8-7-2008	Amend	9-1-2008	291-046-0065	7-21-2008	Amend	9-1-2008
291-013-0104	8-7-2008	Amend	9-1-2008	291-046-0070	7-21-2008	Amend	9-1-2008
291-013-0110	8-7-2008	Amend	9-1-2008	291-046-0075	7-21-2008	Amend	9-1-2008
291-013-0205	8-7-2008	Amend	9-1-2008	291-046-0080	7-21-2008	Amend	9-1-2008
291-013-0206	8-7-2008	Amend	9-1-2008	291-046-0085	7-21-2008	Amend	9-1-2008
291-013-0215	8-7-2008	Amend	9-1-2008	291-046-0090	7-21-2008	Amend	9-1-2008
291-026-0005	3-4-2008	Amend(T)	4-1-2008	291-046-0100	7-21-2008	Adopt	9-1-2008
291-026-0005	8-29-2008	Amend	10-1-2008	291-055-0010	4-1-2008	Amend(T)	5-1-2008
291-026-0010	3-4-2008	Amend(T)	4-1-2008	291-069-0010	12-1-2007	Suspend	1-1-2008
291-026-0010	8-29-2008	Amend	10-1-2008	291-069-0010	5-19-2008	Repeal	7-1-2008
291-026-0015	3-4-2008	Amend(T)	4-1-2008	291-069-0020	12-1-2007	Suspend	1-1-2008
291-026-0015	8-29-2008	Amend	10-1-2008	291-069-0020	5-19-2008	Repeal	7-1-2008
291-026-0025	3-4-2008	Amend(T)	4-1-2008	291-069-0031	12-1-2007	Suspend	1-1-2008
291-026-0025	8-29-2008	Amend	10-1-2008	291-069-0031	5-19-2008	Repeal	7-1-2008
291-026-0030	3-4-2008	Suspend	4-1-2008	291-069-0040	12-1-2007	Suspend	1-1-2008
291-026-0030	8-29-2008	Repeal	10-1-2008	291-069-0040	5-19-2008	Repeal	7-1-2008
291-026-0050	3-4-2008	Adopt(T)	4-1-2008	291-069-0050	12-1-2007	Suspend	1-1-2008
291-026-0050	8-29-2008	Adopt	10-1-2008	291-069-0050	5-19-2008	Repeal	7-1-2008
291-026-0085	3-4-2008	Suspend	4-1-2008	291-069-0060	12-1-2007	Suspend	1-1-2008
291-026-0085	8-29-2008	Repeal	10-1-2008	291-069-0060	5-19-2008	Repeal	7-1-2008
291-026-0095	3-4-2008	Suspend	4-1-2008	291-069-0070	12-1-2007	Suspend	1-1-2008
291-026-0095	8-29-2008	Repeal	10-1-2008	291-069-0070	5-19-2008	Repeal	7-1-2008
291-026-0105	3-4-2008	Amend(T)	4-1-2008	291-069-0090	12-1-2007	Suspend	1-1-2008
291-026-0105	8-29-2008	Amend	10-1-2008	291-069-0090	5-19-2008	Repeal	7-1-2008
291-026-0115	3-4-2008	Amend(T)	4-1-2008	291-069-0100	12-1-2007	Suspend	1-1-2008
291-026-0115	8-29-2008	Amend	10-1-2008	291-069-0100	5-19-2008	Repeal	7-1-2008
291-026-0125	3-4-2008	Amend(T)	4-1-2008	291-069-0200	12-1-2007	Adopt(T)	1-1-2008
291-026-0125	8-29-2008	Amend	10-1-2008	291-069-0200	5-19-2008	Adopt	7-1-2008
291-026-0135	8-29-2008	Repeal	10-1-2008	291-069-0210	12-1-2007	Adopt(T)	1-1-2008

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291-069-0220	12-1-2007	Adopt(T)	1-1-2008	291-097-0040	9-12-2008	Amend(T)	10-1-2008
291-069-0220	5-19-2008	Adopt	7-1-2008	291-097-0050	9-12-2008	Amend(T)	10-1-2008
291-069-0230	12-1-2007	Adopt(T)	1-1-2008	291-097-0060	9-12-2008	Amend(T)	10-1-2008
291-069-0230	5-19-2008	Adopt	7-1-2008	291-097-0070	9-12-2008	Amend(T)	10-1-2008
291-069-0240	12-1-2007	Adopt(T)	1-1-2008	291-097-0080	9-12-2008	Amend(T)	10-1-2008
291-069-0240	5-19-2008	Adopt	7-1-2008	291-097-0100	9-12-2008	Amend(T)	10-1-2008
291-069-0250	12-1-2007	Adopt(T)	1-1-2008	291-097-0110	9-12-2008	Amend(T)	10-1-2008
291-069-0250	5-19-2008	Adopt	7-1-2008	291-097-0120	9-12-2008	Amend(T)	10-1-2008
291-069-0260	12-1-2007	Adopt(T)	1-1-2008	291-104-0005	5-13-2008	Am. & Ren.	6-1-2008
291-069-0260	5-19-2008	Adopt	7-1-2008	291-104-0010	5-13-2008	Repeal	6-1-2008
291-069-0270	12-1-2007	Adopt(T)	1-1-2008	291-104-0015	5-13-2008	Repeal	6-1-2008
291-069-0270	5-19-2008	Adopt	7-1-2008	291-104-0025	5-13-2008	Repeal	6-1-2008
291-069-0280	12-1-2007	Adopt(T)	1-1-2008	291-104-0030	5-13-2008	Repeal	6-1-2008
291-069-0280	5-19-2008	Adopt	7-1-2008	291-104-0033	5-13-2008	Repeal	6-1-2008
291-070-0005	4-10-2008	Am. & Ren.	5-1-2008	291-104-0035	5-13-2008	Repeal	6-1-2008
291-070-0010	4-10-2008	Am. & Ren.	5-1-2008	291-104-0111	5-13-2008	Amend	6-1-2008
291-070-0015	4-10-2008	Repeal	5-1-2008	291-104-0116	5-13-2008	Amend	6-1-2008
291-070-0020	4-10-2008	Repeal	5-1-2008	291-104-0125	5-13-2008	Amend	6-1-2008
291-070-0025	4-10-2008	Repeal	5-1-2008	291-104-0130	5-13-2008	Repeal	6-1-2008
291-070-0026	4-10-2008	Repeal	5-1-2008	291-104-0135	5-13-2008	Amend	6-1-2008
291-070-0027	4-10-2008	Repeal	5-1-2008	291-104-0140	5-13-2008	Adopt	6-1-2008
291-070-0028	4-10-2008	Repeal	5-1-2008	291-105-0010	6-2-2008	Amend	7-1-2008
291-070-0030	4-10-2008	Repeal	5-1-2008	291-105-0021	6-2-2008	Amend	7-1-2008
291-070-0035	4-10-2008	Repeal	5-1-2008	291-105-0026	6-2-2008	Amend	7-1-2008
291-070-0041	4-10-2008	Repeal	5-1-2008	291-105-0028	6-2-2008	Amend	7-1-2008
291-070-0043	4-10-2008	Repeal	5-1-2008	291-105-0041	6-2-2008	Amend	7-1-2008
291-070-0045	4-10-2008	Repeal	5-1-2008	291-105-0046	6-2-2008	Amend	7-1-2008
291-070-0050	4-10-2008	Repeal	5-1-2008	291-105-0056	6-2-2008	Amend	7-1-2008
291-070-0055	4-10-2008	Repeal	5-1-2008	291-105-0064	6-2-2008	Amend	7-1-2008
291-070-0056	4-10-2008	Repeal	5-1-2008	291-105-0066	6-2-2008	Amend	7-1-2008
291-070-0080	4-10-2008	Repeal	5-1-2008	291-105-0069	6-2-2008	Amend	7-1-2008
291-070-0115	4-10-2008	Adopt	5-1-2008	291-105-0071	6-2-2008	Amend	7-1-2008
291-070-0120	4-10-2008	Adopt	5-1-2008	291-105-0081	6-2-2008	Amend	7-1-2008
291-070-0125	4-10-2008	Adopt	5-1-2008	291-105-0085	6-2-2008	Amend	7-1-2008
291-070-0130	4-10-2008	Adopt	5-1-2008	291-105-0100	6-2-2008	Amend	7-1-2008
291-070-0135	4-10-2008	Adopt	5-1-2008	291-127-0200	9-26-2008	Amend	11-1-2008
291-070-0140	4-10-2008	Adopt	5-1-2008	291-127-0210	4-1-2008	Amend(T)	5-1-2008
291-076-0020	8-14-2008	Amend	9-1-2008	291-127-0210	9-26-2008	Amend	11-1-2008
291-076-0030	8-14-2008	Amend	9-1-2008	291-127-0220	9-26-2008	Amend	11-1-2008
291-076-0040	8-14-2008	Adopt	9-1-2008	291-127-0230	9-26-2008	Amend	11-1-2008
291-082-0010	5-13-2008	Am. & Ren.(T)	6-1-2008	291-127-0240	9-26-2008	Amend	11-1-2008
291-082-0020	5-13-2008	Am. & Ren.(T)	6-1-2008	291-127-0245	9-26-2008	Adopt	11-1-2008
291-082-0021	5-13-2008	Am. & Ren.(T)	6-1-2008	291-127-0250	9-26-2008	Amend	11-1-2008
291-082-0025	5-13-2008	Suspend	6-1-2008	291-127-0260	4-1-2008	Amend(T)	5-1-2008
291-082-0026	5-13-2008	Suspend	6-1-2008	291-127-0260	9-26-2008	Amend	11-1-2008
291-082-0027	5-13-2008	Suspend	6-1-2008	291-127-0280	9-26-2008	Amend	11-1-2008
291-082-0035	5-13-2008	Am. & Ren.(T)	6-1-2008	291-127-0285	9-26-2008	Amend	11-1-2008
291-082-0045	5-13-2008	Am. & Ren.(T)	6-1-2008	291-127-0290	9-26-2008	Amend	11-1-2008
291-082-0110	5-13-2008	Adopt(T)	6-1-2008	291-127-0310	9-26-2008	Amend	11-1-2008
291-082-0115	5-13-2008	Adopt(T)	6-1-2008	291-127-0330	9-26-2008	Amend	11-1-2008
291-082-0120	5-13-2008	Adopt(T)	6-1-2008	291-131-0010	1-25-2008	Amend	3-1-2008
291-082-0125	5-13-2008	Adopt(T)	6-1-2008	291-131-0015	1-25-2008	Amend	3-1-2008
291-082-0130	5-13-2008	Adopt(T)	6-1-2008	291-131-0020	1-25-2008	Amend	3-1-2008
291-097-0005	9-12-2008	Amend(T)	10-1-2008	291-131-0025	1-25-2008	Amend	3-1-2008
291-097-0010	9-12-2008	Amend(T)	10-1-2008	291-131-0025	7-21-2008	Amend	9-1-2008
291-097-0015	9-12-2008	Amend(T)	10-1-2008	291-131-0030	1-25-2008	Amend	3-1-2008
291-097-0020	9-12-2008	Amend(T)	10-1-2008	291-131-0035	1-25-2008	Amend	3-1-2008

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291-131-0037	1-25-2008	Amend	3-1-2008	309-011-0100	12-5-2007	Adopt(T)	1-1-2008
291-133-0005	4-1-2008	Amend(T)	5-1-2008	309-011-0100	2-12-2008	Suspend	3-1-2008
291-133-0005	9-26-2008	Amend	11-1-2008	309-031-0215	12-1-2007	Amend(T)	1-1-2008
291-133-0010	4-1-2008	Amend(T)	5-1-2008	309-032-0455	12-11-2007	Amend	1-1-2008
291-133-0010	9-26-2008	Amend	11-1-2008	309-032-1095	4-15-2008	Adopt	5-1-2008
291-133-0015	4-1-2008	Amend(T)	5-1-2008	309-032-1190	1-1-2008	Amend(T)	2-1-2008
291-133-0015	9-26-2008	Amend	11-1-2008	309-032-1190	6-27-2008	Amend	8-1-2008
291-133-0025	4-1-2008	Amend(T)	5-1-2008	309-032-1190(T)	6-27-2008	Repeal	8-1-2008
291-133-0025	9-26-2008	Amend	11-1-2008	309-033-0710	6-27-2008	Amend	8-1-2008
291-133-0035	4-1-2008	Amend(T)	5-1-2008	309-033-0735	1-1-2008	Adopt(T)	2-1-2008
291-133-0035	9-26-2008	Amend	11-1-2008	309-033-0735	6-27-2008	Adopt	8-1-2008
291-133-0045	4-1-2008	Suspend	5-1-2008	309-033-0735(T)	6-27-2008	Repeal	8-1-2008
291-133-0045	9-26-2008	Repeal	11-1-2008	309-035-0100	6-12-2008	Amend	7-1-2008
291-158-0005	7-1-2008	Amend(T)	8-1-2008	309-035-0105	6-12-2008	Amend	7-1-2008
291-158-0015	7-1-2008	Amend(T)	8-1-2008	309-035-0110	6-12-2008	Amend	7-1-2008
291-158-0055	7-1-2008	Amend(T)	8-1-2008	309-035-0113	6-12-2008	Amend	7-1-2008
291-164-0005	3-4-2008	Amend(T)	4-1-2008	309-035-0117	6-12-2008	Amend	7-1-2008
291-164-0005	8-29-2008	Amend	10-1-2008	309-035-0120	6-12-2008	Amend	7-1-2008
291-164-0010	3-4-2008	Amend(T)	4-1-2008	309-035-0125	6-12-2008	Amend	7-1-2008
291-164-0010	8-29-2008	Amend	10-1-2008	309-035-0145	6-12-2008	Amend	7-1-2008
291-164-0015	3-4-2008	Amend(T)	4-1-2008	309-035-0150	6-12-2008	Amend	7-1-2008
291-164-0015	8-29-2008	Amend	10-1-2008	309-035-0157	6-12-2008	Amend	7-1-2008
291-164-0020	3-4-2008	Amend(T)	4-1-2008	309-035-0165	6-12-2008	Amend	7-1-2008
291-164-0020	8-29-2008	Repeal	10-1-2008	309-035-0167	6-12-2008	Amend	7-1-2008
291-164-0025	3-4-2008	Amend(T)	4-1-2008	309-035-0170	6-12-2008	Amend	7-1-2008
291-164-0025	8-29-2008	Repeal	10-1-2008	309-035-0185	6-12-2008	Amend	7-1-2008
291-164-0030	3-4-2008	Amend(T)	4-1-2008	309-035-0190	6-12-2008	Amend	7-1-2008
291-164-0030	8-29-2008	Repeal	10-1-2008	309-114-0000	12-1-2007	Amend(T)	1-1-2008
291-164-0045	3-4-2008	Suspend	4-1-2008	309-114-0000	4-7-2008	Amend(T)	5-1-2008
291-164-0045	8-29-2008	Repeal	10-1-2008	309-114-0000	7-25-2008	Amend	9-1-2008
291-164-0050	3-4-2008	Adopt(T)	4-1-2008	309-114-0000(T)	4-7-2008	Suspend	5-1-2008
291-164-0100	8-29-2008	Adopt	10-1-2008	309-114-0000(T)	7-25-2008	Repeal	9-1-2008
291-164-0110	8-29-2008	Adopt	10-1-2008	309-114-0005	12-1-2007	Amend(T)	1-1-2008
291-164-0120	8-29-2008	Adopt	10-1-2008	309-114-0005	4-7-2008	Amend(T)	5-1-2008
291-164-0130	8-29-2008	Adopt	10-1-2008	309-114-0005	7-25-2008	Amend	9-1-2008
291-164-0140	8-29-2008	Adopt	10-1-2008	309-114-0005(T)	4-7-2008	Suspend	5-1-2008
291-205-0010	5-15-2008	Adopt(T)	6-1-2008	309-114-0005(T)	7-25-2008	Repeal	9-1-2008
291-205-0010	10-6-2008	Adopt	11-1-2008	309-114-0010	12-1-2007	Amend(T)	1-1-2008
291-205-0020	5-15-2008	Adopt(T)	6-1-2008	309-114-0010	4-7-2008	Amend(T)	5-1-2008
291-205-0020	10-6-2008	Adopt	11-1-2008	309-114-0010	7-25-2008	Amend	9-1-2008
291-205-0030	5-15-2008	Adopt(T)	6-1-2008	309-114-0010(T)	4-7-2008	Suspend	5-1-2008
291-205-0030	10-6-2008	Adopt	11-1-2008	309-114-0010(T)	7-25-2008	Repeal	9-1-2008
291-205-0040	5-15-2008	Adopt(T)	6-1-2008	309-114-0015	12-1-2007	Amend(T)	1-1-2008
291-205-0040	10-6-2008	Adopt	11-1-2008	309-114-0015	4-7-2008	Amend(T)	5-1-2008
291-205-0050	5-15-2008	Adopt(T)	6-1-2008	309-114-0015	7-25-2008	Amend	9-1-2008
291-205-0050	10-6-2008	Adopt	11-1-2008	309-114-0015(T)	4-7-2008	Suspend	5-1-2008
291-205-0060	5-15-2008	Adopt(T)	6-1-2008	309-114-0015(T)	7-25-2008	Repeal	9-1-2008
291-205-0060	10-6-2008	Adopt	11-1-2008	309-114-0020	12-1-2007	Amend(T)	1-1-2008
291-205-0070	5-15-2008	Adopt(T)	6-1-2008	309-114-0020	4-7-2008	Amend(T)	5-1-2008
291-205-0070	10-6-2008	Adopt	11-1-2008	309-114-0020	7-25-2008	Amend	9-1-2008
291-205-0080	5-15-2008	Adopt(T)	6-1-2008	309-114-0020(T)	4-7-2008	Suspend	5-1-2008
291-205-0080	10-6-2008	Adopt	11-1-2008	309-114-0020(T)	7-25-2008	Repeal	9-1-2008
291-205-0090	5-15-2008	Adopt(T)	6-1-2008	309-114-0025	12-1-2007	Amend(T)	1-1-2008
291-205-0090	10-6-2008	Adopt	11-1-2008	309-114-0025	4-7-2008	Amend(T)	5-1-2008
291-205-0100	5-15-2008	Adopt(T)	6-1-2008	309-114-0025	7-25-2008	Amend	9-1-2008
291-205-0100	10-6-2008	Adopt	11-1-2008	309-114-0025(T)	4-7-2008	Suspend	5-1-2008
291-205-0110	5-15-2008	Adopt(T)	6-1-2008	309-114-0025(T)	7-25-2008	Repeal	9-1-2008
291-205-0110	10-6-2008	Adopt	11-1-2008	309-114-0030	4-7-2008	Adopt(T)	5-1-2008

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309-114-0030	7-25-2008	Adopt	9-1-2008	330-092-0035	3-1-2008	Adopt	4-1-2008
309-114-0030(T)	7-25-2008	Repeal	9-1-2008	330-092-0040	3-1-2008	Adopt	4-1-2008
309-118-0015	12-1-2007	Amend(T)	1-1-2008	330-092-0045	3-1-2008	Adopt	4-1-2008
325-001-0000	4-14-2008	Adopt	5-1-2008	330-092-0050	3-1-2008	Adopt	4-1-2008
325-001-0001	4-14-2008	Amend	5-1-2008	330-092-0055	3-1-2008	Adopt	4-1-2008
330-007-0200	12-13-2007	Adopt	1-1-2008	330-092-0060	3-1-2008	Adopt	4-1-2008
330-007-0210	12-13-2007	Adopt	1-1-2008	330-092-0065	3-1-2008	Adopt	4-1-2008
330-007-0220	12-13-2007	Adopt	1-1-2008	330-092-0070	3-1-2008	Adopt	4-1-2008
330-007-0230	12-13-2007	Adopt	1-1-2008	330-130-0010	8-1-2008	Amend	9-1-2008
330-007-0240	12-13-2007	Adopt	1-1-2008	330-130-0020	8-1-2008	Amend	9-1-2008
330-007-0250	12-13-2007	Adopt	1-1-2008	330-130-0030	8-1-2008	Amend	9-1-2008
330-007-0260	12-13-2007	Adopt	1-1-2008	330-130-0040	8-1-2008	Amend	9-1-2008
330-007-0270	12-13-2007	Adopt	1-1-2008	330-130-0050	8-1-2008	Amend	9-1-2008
330-007-0280	12-13-2007	Adopt	1-1-2008	330-130-0055	8-1-2008	Adopt	9-1-2008
330-007-0290	12-13-2007	Adopt	1-1-2008	330-130-0060	8-1-2008	Amend	9-1-2008
330-007-0300	12-13-2007	Adopt	1-1-2008	330-130-0070	8-1-2008	Amend	9-1-2008
330-007-0310	12-13-2007	Adopt	1-1-2008	330-130-0080	8-1-2008	Amend	9-1-2008
330-007-0320	12-13-2007	Adopt	1-1-2008	330-130-0090	8-1-2008	Adopt	9-1-2008
330-007-0330	12-13-2007	Adopt	1-1-2008	330-130-0100	8-1-2008	Adopt	9-1-2008
330-070-0010	12-1-2007	Amend	1-1-2008	330-135-0010	1-2-2008	Adopt	2-1-2008
330-070-0013	12-1-2007	Amend	1-1-2008	330-135-0015	1-2-2008	Adopt	2-1-2008
330-070-0014	12-1-2007	Amend	1-1-2008	330-135-0020	1-2-2008	Adopt	2-1-2008
330-070-0021	12-1-2007	Amend	1-1-2008	330-135-0025	1-2-2008	Adopt	2-1-2008
330-070-0022	12-1-2007	Amend	1-1-2008	330-135-0030	1-2-2008	Adopt	2-1-2008
330-070-0025	12-1-2007	Amend	1-1-2008	330-135-0035	1-2-2008	Adopt	2-1-2008
330-070-0026	12-1-2007	Amend	1-1-2008	330-135-0040	1-2-2008	Adopt	2-1-2008
330-070-0048	12-1-2007	Amend	1-1-2008	330-135-0045	1-2-2008	Adopt	2-1-2008
330-070-0059	12-1-2007	Amend	1-1-2008	330-135-0050	1-2-2008	Adopt	2-1-2008
330-070-0060	12-1-2007	Amend	1-1-2008	330-135-0055	1-2-2008	Adopt	2-1-2008
330-070-0064	12-1-2007	Amend	1-1-2008	330-150-0005	1-30-2008	Adopt	3-1-2008
330-070-0073	12-1-2007	Amend	1-1-2008	330-150-0015	1-30-2008	Adopt	3-1-2008
330-070-0089	12-1-2007	Amend	1-1-2008	330-150-0020	1-30-2008	Adopt	3-1-2008
330-070-0091	12-1-2007	Amend	1-1-2008	330-150-0025	1-30-2008	Adopt	3-1-2008
330-070-0097	12-1-2007	Amend	1-1-2008	330-150-0030	1-30-2008	Adopt	3-1-2008
330-090-0105	12-1-2007	Amend	1-1-2008	330-160-0005	9-3-2008	Adopt	10-1-2008
330-090-0105	3-21-2008	Amend	5-1-2008	330-160-0015	9-3-2008	Adopt	10-1-2008
330-090-0105	6-20-2008	Amend	8-1-2008	330-160-0020	9-3-2008	Adopt	10-1-2008
330-090-0110	12-1-2007	Amend	1-1-2008	330-160-0025	9-3-2008	Adopt	10-1-2008
330-090-0110	3-21-2008	Amend	5-1-2008	330-160-0030	9-3-2008	Adopt	10-1-2008
330-090-0110	6-20-2008	Amend	8-1-2008	331-105-0030	10-1-2008	Amend	10-1-2008
330-090-0120	12-1-2007	Amend	1-1-2008	331-205-0020	10-1-2008	Amend	10-1-2008
330-090-0120	3-21-2008	Amend	5-1-2008	331-205-0030	10-1-2008	Amend	10-1-2008
330-090-0120	6-20-2008	Amend	8-1-2008	331-215-0000	10-1-2008	Amend	10-1-2008
330-090-0130	12-1-2007	Amend	1-1-2008	331-215-0010	10-1-2008	Amend	10-1-2008
330-090-0130	3-21-2008	Amend	5-1-2008	331-220-0020	10-1-2008	Amend	10-1-2008
330-090-0130	6-20-2008	Amend	8-1-2008	331-405-0030	10-1-2008	Amend	10-1-2008
330-090-0135	12-1-2007	Amend	1-1-2008	331-415-0000	10-1-2008	Amend	10-1-2008
330-090-0140	12-1-2007	Amend	1-1-2008	331-415-0010	10-1-2008	Amend	10-1-2008
330-090-0140	3-21-2008	Amend	5-1-2008	331-505-0000	10-1-2008	Amend	10-1-2008
330-090-0150	12-1-2007	Amend	1-1-2008	331-505-0010	10-1-2008	Amend	10-1-2008
330-090-0150	3-21-2008	Amend	5-1-2008	331-525-0000	10-1-2008	Amend	10-1-2008
330-090-0150	6-20-2008	Amend	8-1-2008	331-530-0000	10-1-2008	Amend	10-1-2008
330-092-0005	3-1-2008	Adopt	4-1-2008	331-565-0000	10-1-2008	Amend	10-1-2008
330-092-0010	3-1-2008	Adopt	4-1-2008	331-601-0000	10-1-2008	Amend	10-1-2008
330-092-0015	3-1-2008	Adopt	4-1-2008	331-601-0010	10-1-2008	Amend	10-1-2008
330-092-0020	3-1-2008	Adopt	4-1-2008	331-620-0020	10-1-2008	Amend	10-1-2008
330-092-0025	3-1-2008	Adopt	4-1-2008	331-630-0000	10-1-2008	Amend	10-1-2008
330-092-0030	3-1-2008	Adopt	4-1-2008	331-705-0060	10-1-2008	Amend	10-1-2008

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331-800-0010	6-1-2008	Adopt	7-1-2008	333-008-0000	1-1-2008	Amend	2-1-2008
331-800-0010(T)	6-1-2008	Repeal	7-1-2008	333-008-0010	1-1-2008	Amend	2-1-2008
331-800-0020	3-15-2008	Adopt(T)	4-1-2008	333-008-0020	1-1-2008	Amend	2-1-2008
331-800-0020	6-1-2008	Adopt	7-1-2008	333-008-0025	1-1-2008	Amend	2-1-2008
331-800-0020	10-1-2008	Amend	10-1-2008	333-008-0030	1-1-2008	Amend	2-1-2008
331-800-0020(T)	6-1-2008	Repeal	7-1-2008	333-008-0040	1-1-2008	Amend	2-1-2008
331-810-0020	3-15-2008	Adopt(T)	4-1-2008	333-008-0050	1-1-2008	Amend	2-1-2008
331-810-0020	6-1-2008	Adopt	7-1-2008	333-008-0060	1-1-2008	Amend	2-1-2008
331-810-0020(T)	6-1-2008	Repeal	7-1-2008	333-008-0070	1-1-2008	Amend	2-1-2008
331-810-0030	3-15-2008	Adopt(T)	4-1-2008	333-008-0080	1-1-2008	Amend	2-1-2008
331-810-0030	6-1-2008	Adopt	7-1-2008	333-008-0090	1-1-2008	Amend	2-1-2008
331-810-0030(T)	6-1-2008	Repeal	7-1-2008	333-008-0110	1-1-2008	Amend	2-1-2008
331-810-0035	3-15-2008	Adopt(T)	4-1-2008	333-008-0120	1-1-2008	Amend	2-1-2008
331-810-0035	6-1-2008	Adopt	7-1-2008	333-010-0100	6-16-2008	Adopt	8-1-2008
331-810-0035(T)	6-1-2008	Repeal	7-1-2008	333-010-0105	6-16-2008	Adopt	8-1-2008
331-810-0038	9-15-2008	Adopt(T)	10-1-2008	333-010-0110	6-16-2008	Adopt	8-1-2008
331-810-0040	3-15-2008	Adopt(T)	4-1-2008	333-010-0115	6-16-2008	Adopt	8-1-2008
331-810-0040	6-1-2008	Adopt	7-1-2008	333-010-0120	6-16-2008	Adopt	8-1-2008
331-810-0040(T)	6-1-2008	Repeal	7-1-2008	333-010-0125	6-16-2008	Adopt	8-1-2008
331-810-0050	6-1-2008	Adopt	7-1-2008	333-010-0130	6-16-2008	Adopt	8-1-2008
331-810-0055	6-1-2008	Adopt	7-1-2008	333-010-0135	6-16-2008	Adopt	8-1-2008
331-820-0010	3-15-2008	Adopt(T)	4-1-2008	333-010-0140	6-16-2008	Adopt	8-1-2008
331-820-0010	6-1-2008	Adopt	7-1-2008	333-010-0145	6-16-2008	Adopt	8-1-2008
331-820-0010(T)	6-1-2008	Repeal	7-1-2008	333-010-0150	6-16-2008	Adopt	8-1-2008
331-820-0020	3-15-2008	Adopt(T)	4-1-2008	333-010-0155	6-16-2008	Adopt	8-1-2008
331-820-0020	6-1-2008	Adopt	7-1-2008	333-010-0160	6-16-2008	Adopt	8-1-2008
331-820-0020(T)	6-1-2008	Repeal	7-1-2008	333-010-0165	6-16-2008	Adopt	8-1-2008
331-830-0005	6-1-2008	Adopt	7-1-2008	333-010-0170	6-16-2008	Adopt	8-1-2008
331-830-0010	6-1-2008	Adopt	7-1-2008	333-010-0175	6-16-2008	Adopt	8-1-2008
331-830-0020	6-1-2008	Adopt	7-1-2008	333-010-0180	6-16-2008	Adopt	8-1-2008
331-840-0010	6-1-2008	Adopt	7-1-2008	333-010-0185	6-16-2008	Adopt	8-1-2008
331-840-0020	6-1-2008	Adopt	7-1-2008	333-010-0190	6-16-2008	Adopt	8-1-2008
331-840-0030	6-1-2008	Adopt	7-1-2008	333-010-0195	6-16-2008	Adopt	8-1-2008
331-840-0040	6-1-2008	Adopt	7-1-2008	333-015-0025	1-1-2009	Amend	9-1-2008
331-840-0050	6-1-2008	Adopt	7-1-2008	333-015-0030	1-1-2009	Amend	9-1-2008
331-840-0060	6-1-2008	Adopt	7-1-2008	333-015-0034	1-1-2009	Repeal	9-1-2008
331-850-0010	3-15-2008	Adopt(T)	4-1-2008	333-015-0035	1-1-2009	Amend	9-1-2008
331-850-0010	6-1-2008	Adopt	7-1-2008	333-015-0040	1-1-2009	Amend	9-1-2008
331-850-0010(T)	6-1-2008	Repeal	7-1-2008	333-015-0045	1-1-2009	Amend	9-1-2008
332-015-0070	10-1-2008	Amend(T)	10-1-2008	333-015-0050	1-1-2009	Repeal	9-1-2008
332-020-0000	10-1-2008	Amend	10-1-2008	333-015-0060	1-1-2009	Repeal	9-1-2008
332-020-0010	10-1-2008	Amend(T)	10-1-2008	333-015-0062	1-1-2009	Adopt	9-1-2008
332-020-0020	10-1-2008	Amend	10-1-2008	333-015-0064	1-1-2009	Adopt	9-1-2008
333-003-0010	5-5-2008	Amend	6-1-2008	333-015-0065	1-1-2009	Repeal	9-1-2008
333-003-0020	5-5-2008	Amend	6-1-2008	333-015-0066	1-1-2009	Adopt	9-1-2008
333-003-0030	5-5-2008	Repeal	6-1-2008	333-015-0068	1-1-2009	Adopt	9-1-2008
333-003-0040	5-5-2008	Amend	6-1-2008	333-015-0069	1-1-2009	Adopt	9-1-2008
333-003-0050	5-5-2008	Amend	6-1-2008	333-015-0070	1-1-2009	Amend	9-1-2008
333-003-0060	5-5-2008	Repeal	6-1-2008	333-015-0075	1-1-2009	Amend	9-1-2008
333-003-0065	5-5-2008	Adopt	6-1-2008	333-015-0080	1-1-2009	Amend	9-1-2008
333-003-0070	5-5-2008	Amend	6-1-2008	333-015-0082	1-1-2009	Adopt	9-1-2008
333-003-0080	5-5-2008	Amend	6-1-2008	333-015-0085	1-1-2009	Amend	9-1-2008
333-003-0105	5-5-2008	Amend	6-1-2008	333-015-0090	1-1-2009	Amend	9-1-2008
333-003-0110	5-5-2008	Amend	6-1-2008	333-049-0010	3-17-2008	Amend	5-1-2008
333-003-0115	5-5-2008	Amend	6-1-2008	333-049-0020	3-17-2008	Amend	5-1-2008
333-003-0125	5-5-2008	Amend	6-1-2008	333-049-0030	3-17-2008	Amend	5-1-2008
333-003-0130	5-5-2008	Amend	6-1-2008	333-049-0040	3-17-2008	Amend	5-1-2008

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333-049-0060	3-17-2008	Amend	5-1-2008	333-080-0040	7-1-2008	Adopt	4-1-2008
333-049-0065	3-17-2008	Amend	5-1-2008	333-080-0050	7-1-2008	Adopt	4-1-2008
333-049-0070	3-17-2008	Amend	5-1-2008	333-100-0005	9-15-2008	Amend	10-1-2008
333-049-0080	3-17-2008	Amend	5-1-2008	333-100-0020	9-15-2008	Amend	10-1-2008
333-049-0090	3-17-2008	Amend	5-1-2008	333-100-0080	9-15-2008	Amend	10-1-2008
333-049-0110	3-17-2008	Repeal	5-1-2008	333-102-0010	9-15-2008	Amend	10-1-2008
333-049-0120	3-17-2008	Amend	5-1-2008	333-102-0103	9-15-2008	Amend	10-1-2008
333-050-0010	3-17-2008	Amend	5-1-2008	333-102-0115	9-15-2008	Amend	10-1-2008
333-050-0020	1-8-2008	Amend(T)	2-1-2008	333-102-0125	9-15-2008	Amend	10-1-2008
333-050-0020	3-17-2008	Amend	5-1-2008	333-102-0130	9-15-2008	Amend	10-1-2008
333-050-0030	3-17-2008	Amend	5-1-2008	333-102-0190	9-15-2008	Amend	10-1-2008
333-050-0040	3-17-2008	Amend	5-1-2008	333-102-0203	9-15-2008	Amend	10-1-2008
333-050-0050	1-8-2008	Amend(T)	2-1-2008	333-102-0235	9-15-2008	Amend	10-1-2008
333-050-0050	3-17-2008	Amend	5-1-2008	333-102-0245	9-15-2008	Amend	10-1-2008
333-050-0060	3-17-2008	Amend	5-1-2008	333-102-0247	9-15-2008	Amend	10-1-2008
333-050-0070	3-17-2008	Amend	5-1-2008	333-102-0285	9-15-2008	Amend	10-1-2008
333-050-0080	3-17-2008	Amend	5-1-2008	333-102-0293	9-15-2008	Amend	10-1-2008
333-050-0090	3-17-2008	Amend	5-1-2008	333-102-0310	9-15-2008	Amend	10-1-2008
333-050-0095	3-17-2008	Amend	5-1-2008	333-102-0330	9-15-2008	Amend	10-1-2008
333-050-0100	3-17-2008	Amend	5-1-2008	333-102-0335	9-15-2008	Amend	10-1-2008
333-050-0110	3-17-2008	Amend	5-1-2008	333-102-0340	9-15-2008	Amend	10-1-2008
333-050-0120	1-8-2008	Amend(T)	2-1-2008	333-102-0345	9-15-2008	Amend	10-1-2008
333-050-0120	3-17-2008	Amend	5-1-2008	333-102-0350	9-15-2008	Amend	10-1-2008
333-050-0130	3-17-2008	Amend	5-1-2008	333-102-0355	9-15-2008	Amend	10-1-2008
333-050-0140	3-17-2008	Amend	5-1-2008	333-102-0900	9-15-2008	Amend	10-1-2008
333-052-0030	4-3-2008	Amend	5-1-2008	333-103-0003	9-15-2008	Amend	10-1-2008
333-052-0040	4-3-2008	Amend	5-1-2008	333-103-0005	9-15-2008	Amend	10-1-2008
333-052-0050	4-3-2008	Amend	5-1-2008	333-103-0010	9-15-2008	Amend	10-1-2008
333-052-0060	4-3-2008	Amend	5-1-2008	333-103-0015	9-15-2008	Amend	10-1-2008
333-052-0065	4-3-2008	Amend	5-1-2008	333-103-0020	9-15-2008	Amend	10-1-2008
333-052-0070	4-3-2008	Amend	5-1-2008	333-103-0025	9-15-2008	Amend	10-1-2008
333-052-0075	4-3-2008	Amend	5-1-2008	333-103-0050	9-15-2008	Amend	10-1-2008
333-052-0080	4-3-2008	Amend	5-1-2008	333-106-0005	9-15-2008	Amend	10-1-2008
333-052-0090	4-3-2008	Amend	5-1-2008	333-106-0010	9-15-2008	Amend	10-1-2008
333-052-0100	4-3-2008	Amend	5-1-2008	333-106-0035	9-15-2008	Amend	10-1-2008
333-052-0110	4-3-2008	Amend	5-1-2008	333-106-0040	9-15-2008	Amend	10-1-2008
333-052-0120	4-3-2008	Amend	5-1-2008	333-106-0045	9-15-2008	Amend	10-1-2008
333-052-0130	4-3-2008	Amend	5-1-2008	333-106-0050	9-15-2008	Amend	10-1-2008
333-061-0030	2-15-2008	Amend	3-1-2008	333-106-0055	9-15-2008	Amend	10-1-2008
333-061-0032	2-15-2008	Amend	3-1-2008	333-106-0101	9-15-2008	Amend	10-1-2008
333-061-0034	2-15-2008	Amend	3-1-2008	333-106-0105	9-15-2008	Amend	10-1-2008
333-061-0036	2-15-2008	Amend	3-1-2008	333-106-0110	9-15-2008	Amend	10-1-2008
333-061-0040	2-15-2008	Amend	3-1-2008	333-106-0130	9-15-2008	Amend	10-1-2008
333-061-0043	2-15-2008	Amend	3-1-2008	333-106-0201	9-15-2008	Amend	10-1-2008
333-061-0045	2-15-2008	Amend	3-1-2008	333-106-0210	9-15-2008	Amend	10-1-2008
333-061-0050	2-15-2008	Amend	3-1-2008	333-106-0215	9-15-2008	Amend	10-1-2008
333-061-0061	2-15-2008	Amend	3-1-2008	333-106-0230	9-15-2008	Amend	10-1-2008
333-061-0070	2-15-2008	Amend	3-1-2008	333-106-0301	9-15-2008	Amend	10-1-2008
333-061-0072	2-15-2008	Amend	3-1-2008	333-106-0305	9-15-2008	Amend	10-1-2008
333-061-0076	2-15-2008	Amend	3-1-2008	333-106-0315	9-15-2008	Amend	10-1-2008
333-061-0215	2-15-2008	Amend	3-1-2008	333-106-0320	9-15-2008	Amend	10-1-2008
333-061-0245	2-15-2008	Amend	3-1-2008	333-106-0325	9-15-2008	Amend	10-1-2008
333-061-0250	2-15-2008	Amend	3-1-2008	333-106-0350	9-15-2008	Amend	10-1-2008
333-061-0260	2-15-2008	Amend	3-1-2008	333-106-0355	9-15-2008	Amend	10-1-2008
333-061-0265	2-15-2008	Amend	3-1-2008	333-106-0365	9-15-2008	Amend	10-1-2008
333-071-0125	8-15-2008	Amend	9-1-2008	333-106-0370	9-15-2008	Amend	10-1-2008
333-076-0190	8-15-2008	Adopt	9-1-2008	333-106-0601	9-15-2008	Amend	10-1-2008

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333-120-0180	9-15-2008	Amend	10-1-2008	333-536-0030	1-1-2008	Amend	2-1-2008
333-120-0200	9-15-2008	Amend	10-1-2008	333-536-0040	1-1-2008	Amend	2-1-2008
333-120-0210	9-15-2008	Amend	10-1-2008	333-536-0050	1-1-2008	Amend	2-1-2008
333-120-0215	9-15-2008	Amend	10-1-2008	333-536-0070	1-1-2008	Amend	2-1-2008
333-120-0230	9-15-2008	Amend	10-1-2008	333-536-0075	1-1-2008	Amend	2-1-2008
333-120-0240	9-15-2008	Amend	10-1-2008	333-536-0080	1-1-2008	Amend	2-1-2008
333-120-0320	9-15-2008	Amend	10-1-2008	333-536-0085	1-1-2008	Amend	2-1-2008
333-120-0340	9-15-2008	Adopt	10-1-2008	333-536-0090	1-1-2008	Amend	2-1-2008
333-120-0420	9-15-2008	Amend	10-1-2008	333-536-0095	1-1-2008	Amend	2-1-2008
333-120-0450	9-15-2008	Amend	10-1-2008	333-536-0100	1-1-2008	Repeal	2-1-2008
333-120-0520	9-15-2008	Amend	10-1-2008	333-536-0105	1-1-2008	Adopt	2-1-2008
333-120-0540	9-15-2008	Amend	10-1-2008	333-536-0115	1-1-2008	Adopt	2-1-2008
333-120-0600	9-15-2008	Amend	10-1-2008	333-560-0010	10-7-2008	Amend	11-1-2008
333-120-0610	9-15-2008	Amend	10-1-2008	333-700-0120	8-15-2008	Amend	9-1-2008
333-120-0620	9-15-2008	Amend	10-1-2008	335-001-0005	4-10-2008	Amend	5-1-2008
333-120-0650	9-15-2008	Amend	10-1-2008	335-001-0008	4-10-2008	Adopt	5-1-2008
333-120-0680	9-15-2008	Amend	10-1-2008	335-001-0011	4-10-2008	Amend	5-1-2008
333-120-0710	9-15-2008	Amend	10-1-2008	335-005-0010	4-10-2008	Amend	5-1-2008
333-120-0720	9-15-2008	Amend	10-1-2008	335-005-0020	4-10-2008	Amend	5-1-2008
333-120-0740	9-15-2008	Amend	10-1-2008	335-060-0010	4-10-2008	Amend	5-1-2008
333-120-0800	9-15-2008	Adopt	10-1-2008	335-070-0040	4-10-2008	Amend	5-1-2008
333-150-0000	3-5-2008	Amend	4-1-2008	335-095-0010	4-10-2008	Amend	5-1-2008
333-265-0000	6-16-2008	Amend	8-1-2008	335-095-0030	4-10-2008	Amend	5-1-2008
333-265-0010	6-16-2008	Amend	8-1-2008	335-095-0040	4-10-2008	Amend	5-1-2008
333-265-0012	6-16-2008	Adopt	8-1-2008	335-095-0050	4-10-2008	Amend	5-1-2008
333-265-0014	6-16-2008	Adopt	8-1-2008	335-095-0050	8-13-2008	Amend(T)	9-1-2008
333-265-0016	6-16-2008	Adopt	8-1-2008	335-095-0055	4-10-2008	Amend	5-1-2008
333-265-0018	6-16-2008	Adopt	8-1-2008	335-095-0060	4-10-2008	Amend	5-1-2008
333-265-0020	6-16-2008	Amend	8-1-2008	335-095-0065	4-10-2008	Amend	5-1-2008
333-265-0022	6-16-2008	Adopt	8-1-2008	338-005-0030	10-1-2008	Amend	10-1-2008
333-265-0023	6-16-2008	Adopt	8-1-2008	338-010-0038	10-1-2008	Amend	10-1-2008
333-265-0025	6-16-2008	Amend	8-1-2008	338-010-0050	10-1-2008	Amend	10-1-2008
333-265-0025	6-20-2008	Amend(T)	8-1-2008	340-011-0005	3-20-2008	Amend	5-1-2008
333-265-0030	6-16-2008	Amend	8-1-2008	340-011-0009	3-20-2008	Adopt	5-1-2008
333-265-0040	6-16-2008	Amend	8-1-2008	340-011-0010	2-25-2008	Amend	4-1-2008
333-265-0040	6-20-2008	Amend(T)	8-1-2008	340-011-0029	2-25-2008	Amend	4-1-2008
333-265-0050	6-16-2008	Amend	8-1-2008	340-011-0510	3-20-2008	Amend	5-1-2008
333-265-0060	6-16-2008	Amend	8-1-2008	340-011-0515	3-20-2008	Amend	5-1-2008
333-265-0070	6-16-2008	Amend	8-1-2008	340-011-0573	3-20-2008	Adopt	5-1-2008
333-265-0080	6-16-2008	Amend	8-1-2008	340-011-0575	3-20-2008	Amend	5-1-2008
333-265-0090	6-16-2008	Amend	8-1-2008	340-016-0210	7-11-2008	Amend	8-1-2008
333-265-0100	6-16-2008	Amend	8-1-2008	340-016-0220	7-11-2008	Amend	8-1-2008
333-265-0110	6-16-2008	Amend	8-1-2008	340-016-0230	7-11-2008	Amend	8-1-2008
333-265-0120	6-16-2008	Repeal	8-1-2008	340-016-0250	7-11-2008	Amend	8-1-2008
333-265-0130	6-16-2008	Repeal	8-1-2008	340-016-0270	7-11-2008	Adopt	8-1-2008
333-265-0140	6-16-2008	Amend	8-1-2008	340-016-0280	7-11-2008	Adopt	8-1-2008
333-265-0150	6-16-2008	Amend	8-1-2008	340-016-0290	7-11-2008	Adopt	8-1-2008
333-265-0160	6-16-2008	Amend	8-1-2008	340-016-0300	7-11-2008	Adopt	8-1-2008
333-265-0170	6-16-2008	Amend	8-1-2008	340-016-0310	7-11-2008	Adopt	8-1-2008
333-265-0180	6-16-2008	Adopt	8-1-2008	340-016-0320	7-11-2008	Adopt	8-1-2008
333-265-0190	6-16-2008	Adopt	8-1-2008	340-016-0330	7-11-2008	Adopt	8-1-2008
333-515-0030	8-15-2008	Amend	9-1-2008	340-016-0340	7-11-2008	Adopt	8-1-2008
333-520-0073	3-7-2008	Adopt	4-1-2008	340-041-0009	5-5-2008	Amend	6-1-2008
333-520-0110	7-1-2008	Amend	4-1-2008	340-045-0075	7-1-2008	Amend	8-1-2008
333-536-0005	1-1-2008	Amend	2-1-2008	340-054-0035	2-27-2008	Amend	4-1-2008
333-536-0010	1-1-2008	Amend	2-1-2008	340-054-0060	2-27-2008	Amend	4-1-2008
333-536-0015	1-1-2008	Amend	2-1-2008	340-055-0005	5-5-2008	Amend	6-1-2008

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340-055-0013	5-5-2008	Amend	6-1-2008	340-200-0040	3-20-2008	Amend	5-1-2008
340-055-0015	5-5-2008	Am. & Ren.	6-1-2008	340-200-0040	8-29-2008	Amend	10-1-2008
340-055-0015	5-5-2008	Am. & Ren.	6-1-2008	340-200-0040	9-17-2008	Amend	11-1-2008
340-055-0015	5-5-2008	Am. & Ren.	6-1-2008	340-210-0205	9-17-2008	Amend	11-1-2008
340-055-0015	5-5-2008	Am. & Ren.	6-1-2008	340-218-0050	8-25-2008	Amend	10-1-2008
340-055-0020	5-5-2008	Amend	6-1-2008	340-220-0010	8-25-2008	Amend	10-1-2008
340-055-0025	5-5-2008	Amend	6-1-2008	340-220-0020	8-25-2008	Amend	10-1-2008
340-055-0030	5-5-2008	Amend	6-1-2008	340-220-0030	8-25-2008	Amend	10-1-2008
340-071-0140	7-1-2008	Amend	8-1-2008	340-220-0040	8-25-2008	Amend	10-1-2008
340-071-0220	7-1-2008	Amend	8-1-2008	340-220-0050	8-25-2008	Amend	10-1-2008
340-122-0210	3-10-2008	Amend	4-1-2008	340-220-0060	8-25-2008	Amend	10-1-2008
340-122-0330	3-10-2008	Amend	4-1-2008	340-220-0070	8-25-2008	Amend	10-1-2008
340-150-0006	3-10-2008	Amend	4-1-2008	340-220-0090	8-25-2008	Amend	10-1-2008
340-150-0008	3-10-2008	Amend	4-1-2008	340-220-0100	8-25-2008	Amend	10-1-2008
340-150-0010	3-10-2008	Amend	4-1-2008	340-220-0110	8-25-2008	Amend	10-1-2008
340-150-0020	3-10-2008	Amend	4-1-2008	340-220-0120	8-25-2008	Amend	10-1-2008
340-150-0021	3-10-2008	Amend	4-1-2008	340-220-0150	8-25-2008	Amend	10-1-2008
340-150-0052	3-10-2008	Amend	4-1-2008	340-220-0170	8-25-2008	Amend	10-1-2008
340-150-0102	3-10-2008	Amend	4-1-2008	340-222-0020	3-6-2008	Amend(T)	4-1-2008
340-150-0110	3-10-2008	Amend	4-1-2008	340-222-0020	8-29-2008	Amend	10-1-2008
340-150-0135	3-10-2008	Amend	4-1-2008	340-248-0260	11-30-2007	Amend	1-1-2008
340-150-0150	3-10-2008	Amend	4-1-2008	340-259-0005	7-11-2008	Adopt	8-1-2008
340-150-0152	3-10-2008	Amend	4-1-2008	340-259-0010	7-11-2008	Adopt	8-1-2008
340-150-0160	3-10-2008	Amend	4-1-2008	340-259-0015	7-11-2008	Adopt	8-1-2008
340-150-0163	3-10-2008	Amend	4-1-2008	340-259-0020	7-11-2008	Adopt	8-1-2008
340-150-0166	3-10-2008	Amend	4-1-2008	340-259-0025	7-11-2008	Adopt	8-1-2008
340-150-0167	3-10-2008	Amend	4-1-2008	340-259-0030	7-11-2008	Adopt	8-1-2008
340-150-0168	3-10-2008	Amend	4-1-2008	340-259-0035	7-11-2008	Adopt	8-1-2008
340-150-0180	3-10-2008	Amend	4-1-2008	340-259-0040	7-11-2008	Adopt	8-1-2008
340-150-0200	3-10-2008	Amend	4-1-2008	340-259-0045	7-11-2008	Adopt	8-1-2008
340-150-0210	3-10-2008	Adopt	4-1-2008	340-259-0050	7-11-2008	Adopt	8-1-2008
340-150-0250	3-10-2008	Amend	4-1-2008	340-259-0055	7-11-2008	Adopt	8-1-2008
340-150-0300	3-10-2008	Amend	4-1-2008	340-259-0060	7-11-2008	Adopt	8-1-2008
340-150-0310	3-10-2008	Amend	4-1-2008	340-259-0065	7-11-2008	Adopt	8-1-2008
340-150-0350	3-10-2008	Amend	4-1-2008	340-264-0040	9-17-2008	Amend	11-1-2008
340-150-0352	3-10-2008	Amend	4-1-2008	350-011-0003	4-1-2008	Amend	4-1-2008
340-150-0354	3-10-2008	Amend	4-1-2008	350-011-0011	4-1-2008	Adopt	4-1-2008
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340-150-0410	3-10-2008	Amend	4-1-2008	350-012-0008	4-1-2008	Amend	4-1-2008
340-150-0430	3-10-2008	Amend	4-1-2008	350-016-0009	4-1-2008	Amend	4-1-2008
340-150-0450	3-10-2008	Amend	4-1-2008	407-005-0110	12-1-2007	Amend	1-1-2008
340-150-0455	3-10-2008	Amend	4-1-2008	407-007-0000	3-31-2008	Adopt(T)	5-1-2008
340-150-0460	3-10-2008	Amend	4-1-2008	407-007-0000	9-1-2008	Adopt	10-1-2008
340-150-0465	3-10-2008	Amend	4-1-2008	407-007-0000(T)	9-1-2008	Repeal	10-1-2008
340-150-0470	3-10-2008	Amend	4-1-2008	407-007-0010	3-31-2008	Adopt(T)	5-1-2008
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340-150-0555	3-10-2008	Amend	4-1-2008	407-007-0010(T)	9-1-2008	Repeal	10-1-2008
340-150-0560	3-10-2008	Amend	4-1-2008	407-007-0020	3-31-2008	Adopt(T)	5-1-2008
340-160-0030	3-10-2008	Amend	4-1-2008	407-007-0020	9-1-2008	Adopt	10-1-2008
340-160-0150	3-10-2008	Amend	4-1-2008	407-007-0020(T)	9-1-2008	Repeal	10-1-2008
340-162-0005	3-10-2008	Amend	4-1-2008	407-007-0030	3-31-2008	Adopt(T)	5-1-2008
340-162-0010	3-10-2008	Amend	4-1-2008	407-007-0030	9-1-2008	Adopt	10-1-2008
340-162-0020	3-10-2008	Amend	4-1-2008	407-007-0030(T)	9-1-2008	Repeal	10-1-2008
340-162-0040	3-10-2008	Amend	4-1-2008	407-007-0040	3-31-2008	Adopt(T)	5-1-2008
340-162-0054	3-10-2008	Repeal	4-1-2008	407-007-0040	9-1-2008	Adopt	10-1-2008
340-162-0150	3-10-2008	Amend	4-1-2008	407-007-0040(T)	9-1-2008	Repeal	10-1-2008

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407-007-0050	3-31-2008	Adopt(T)	5-1-2008	407-045-0860	12-3-2007	Adopt(T)	1-1-2008
407-007-0050	9-1-2008	Adopt	10-1-2008	407-045-0860	5-30-2008	Adopt	7-1-2008
407-007-0050(T)	9-1-2008	Repeal	10-1-2008	407-045-0860(T)	5-30-2008	Repeal	7-1-2008
407-007-0060	3-31-2008	Adopt(T)	5-1-2008	407-045-0870	12-3-2007	Adopt(T)	1-1-2008
407-007-0060	9-1-2008	Adopt	10-1-2008	407-045-0870	5-30-2008	Adopt	7-1-2008
407-007-0060(T)	9-1-2008	Repeal	10-1-2008	407-045-0870(T)	5-30-2008	Repeal	7-1-2008
407-007-0070	3-31-2008	Adopt(T)	5-1-2008	407-045-0880	12-3-2007	Adopt(T)	1-1-2008
407-007-0070	9-1-2008	Adopt	10-1-2008	407-045-0880	5-30-2008	Adopt	7-1-2008
407-007-0070(T)	9-1-2008	Repeal	10-1-2008	407-045-0880(T)	5-30-2008	Repeal	7-1-2008
407-007-0080	3-31-2008	Adopt(T)	5-1-2008	407-045-0890	12-3-2007	Adopt(T)	1-1-2008
407-007-0080	9-1-2008	Adopt	10-1-2008	407-045-0890	5-30-2008	Adopt	7-1-2008
407-007-0080(T)	9-1-2008	Repeal	10-1-2008	407-045-0890(T)	5-30-2008	Repeal	7-1-2008
407-007-0090	3-31-2008	Adopt(T)	5-1-2008	407-045-0900	12-3-2007	Adopt(T)	1-1-2008
407-007-0090	9-1-2008	Adopt	10-1-2008	407-045-0900	5-30-2008	Adopt	7-1-2008
407-007-0090(T)	9-1-2008	Repeal	10-1-2008	407-045-0900(T)	5-30-2008	Repeal	7-1-2008
407-007-0100	5-22-2008	Adopt(T)	7-1-2008	407-045-0910	12-3-2007	Adopt(T)	1-1-2008
407-007-0100	9-1-2008	Adopt	10-1-2008	407-045-0910	5-30-2008	Adopt	7-1-2008
407-007-0100(T)	9-1-2008	Repeal	10-1-2008	407-045-0910(T)	5-30-2008	Repeal	7-1-2008
407-007-0210	3-31-2008	Amend(T)	5-1-2008	407-045-0920	12-3-2007	Adopt(T)	1-1-2008
407-007-0210	9-1-2008	Amend	10-1-2008	407-045-0920	5-30-2008	Adopt	7-1-2008
407-007-0210(T)	9-1-2008	Repeal	10-1-2008	407-045-0920(T)	5-30-2008	Repeal	7-1-2008
407-007-0270	3-31-2008	Amend(T)	5-1-2008	407-045-0930	12-3-2007	Adopt(T)	1-1-2008
407-007-0270	9-1-2008	Amend	10-1-2008	407-045-0930	5-30-2008	Adopt	7-1-2008
407-007-0270(T)	9-1-2008	Repeal	10-1-2008	407-045-0930(T)	5-30-2008	Repeal	7-1-2008
407-007-0330	3-31-2008	Amend(T)	5-1-2008	407-045-0940	12-3-2007	Adopt(T)	1-1-2008
407-007-0330	9-1-2008	Amend	10-1-2008	407-045-0940	5-30-2008	Adopt	7-1-2008
407-007-0330(T)	9-1-2008	Repeal	10-1-2008	407-045-0940(T)	5-30-2008	Repeal	7-1-2008
407-012-0005	12-1-2007	Adopt	1-1-2008	407-045-0950	12-3-2007	Adopt(T)	1-1-2008
407-012-0010	12-1-2007	Adopt	1-1-2008	407-045-0950	5-30-2008	Adopt	7-1-2008
407-012-0015	12-1-2007	Adopt	1-1-2008	407-045-0950(T)	5-30-2008	Repeal	7-1-2008
407-012-0020	12-1-2007	Adopt	1-1-2008	407-045-0960	12-3-2007	Adopt(T)	1-1-2008
407-012-0025	12-1-2007	Adopt	1-1-2008	407-045-0960	5-30-2008	Adopt	7-1-2008
407-014-0300	1-1-2008	Adopt	2-1-2008	407-045-0960(T)	5-30-2008	Repeal	7-1-2008
407-014-0305	1-1-2008	Adopt	2-1-2008	407-045-0970	12-3-2007	Adopt(T)	1-1-2008
407-014-0310	1-1-2008	Adopt	2-1-2008	407-045-0970	5-30-2008	Adopt	7-1-2008
407-014-0315	1-1-2008	Adopt	2-1-2008	407-045-0970	9-1-2008	Amend	10-1-2008
407-014-0320	1-1-2008	Adopt	2-1-2008	407-045-0970(T)	5-30-2008	Repeal	7-1-2008
407-035-0000	7-1-2008	Adopt	8-1-2008	407-045-0980	12-3-2007	Adopt(T)	1-1-2008
407-035-0005	7-1-2008	Adopt	8-1-2008	407-045-0980	5-30-2008	Adopt	7-1-2008
407-035-0010	7-1-2008	Adopt	8-1-2008	407-045-0980(T)	5-30-2008	Repeal	7-1-2008
407-035-0015	7-1-2008	Adopt	8-1-2008	407-120-0112	1-1-2008	Adopt(T)	2-1-2008
407-045-0800	12-3-2007	Adopt(T)	1-1-2008	407-120-0112	2-1-2008	Adopt	3-1-2008
407-045-0800	5-30-2008	Adopt	7-1-2008	407-120-0112(T)	2-1-2008	Repeal	3-1-2008
407-045-0800(T)	5-30-2008	Repeal	7-1-2008	407-120-0114	1-1-2008	Adopt(T)	2-1-2008
407-045-0810	12-3-2007	Adopt(T)	1-1-2008	407-120-0114	2-1-2008	Adopt	3-1-2008
407-045-0810	5-30-2008	Adopt	7-1-2008	407-120-0114(T)	2-1-2008	Repeal	3-1-2008
407-045-0810(T)	5-30-2008	Repeal	7-1-2008	407-120-0116	1-1-2008	Adopt(T)	2-1-2008
407-045-0820	12-3-2007	Adopt(T)	1-1-2008	407-120-0116	2-1-2008	Adopt	3-1-2008
407-045-0820	5-30-2008	Adopt	7-1-2008	407-120-0116(T)	2-1-2008	Repeal	3-1-2008
407-045-0820(T)	5-30-2008	Repeal	7-1-2008	407-120-0118	1-1-2008	Adopt(T)	2-1-2008
407-045-0830	12-3-2007	Adopt(T)	1-1-2008	407-120-0118	2-1-2008	Adopt	3-1-2008
407-045-0830	5-30-2008	Adopt	7-1-2008	407-120-0118(T)	2-1-2008	Repeal	3-1-2008
407-045-0830(T)	5-30-2008	Repeal	7-1-2008	407-120-0165	1-1-2008	Adopt(T)	2-1-2008
407-045-0840	12-3-2007	Adopt(T)	1-1-2008	407-120-0165	2-1-2008	Adopt	3-1-2008
407-045-0840(T)	5-30-2008	Repeal	7-1-2008	407-120-0165(T)	2-1-2008	Repeal	3-1-2008
407-045-0850	12-3-2007	Adopt(T)	1-1-2008	407-120-0300	1-1-2008	Adopt	2-1-2008
407-045-0850	5-30-2008	Adopt	7-1-2008	407-120-0300	7-1-2008	Amend(T)	8-1-2008
407-045-0850(T)	5-30-2008	Repeal	7-1-2008	407-120-0310	1-1-2008	Adopt	2-1-2008

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407-120-0310	7-1-2008	Amend(T)	8-1-2008	410-001-0200(T)	2-1-2008	Repeal	3-1-2008
407-120-0320	1-1-2008	Adopt	2-1-2008	410-050-0100	1-25-2008	Amend	3-1-2008
407-120-0320	7-1-2008	Amend(T)	8-1-2008	410-050-0110	1-25-2008	Amend	3-1-2008
407-120-0325	7-1-2008	Adopt(T)	8-1-2008	410-050-0120	1-25-2008	Amend	3-1-2008
407-120-0330	1-1-2008	Adopt	2-1-2008	410-050-0130	1-25-2008	Amend	3-1-2008
407-120-0330	7-1-2008	Amend(T)	8-1-2008	410-050-0140	1-25-2008	Amend	3-1-2008
407-120-0340	1-1-2008	Adopt	2-1-2008	410-050-0150	1-25-2008	Amend	3-1-2008
407-120-0340	7-1-2008	Amend(T)	8-1-2008	410-050-0160	1-25-2008	Amend	3-1-2008
407-120-0350	1-1-2008	Adopt	2-1-2008	410-050-0170	1-25-2008	Amend	3-1-2008
407-120-0350	7-1-2008	Amend(T)	8-1-2008	410-050-0180	1-25-2008	Amend	3-1-2008
407-120-0360	1-1-2008	Adopt	2-1-2008	410-050-0190	1-25-2008	Amend	3-1-2008
407-120-0360	7-1-2008	Amend(T)	8-1-2008	410-050-0190	9-1-2008	Amend	10-1-2008
407-120-0370	1-1-2008	Adopt	2-1-2008	410-050-0200	1-25-2008	Amend	3-1-2008
407-120-0370	7-1-2008	Amend(T)	8-1-2008	410-050-0210	1-25-2008	Amend	3-1-2008
407-120-0380	1-1-2008	Adopt	2-1-2008	410-050-0220	1-25-2008	Amend	3-1-2008
407-120-0380	7-1-2008	Amend(T)	8-1-2008	410-050-0230	1-25-2008	Amend	3-1-2008
409-023-0000	7-1-2008	Adopt	8-1-2008	410-050-0240	1-25-2008	Amend	3-1-2008
409-023-0005	7-1-2008	Adopt	8-1-2008	410-050-0250	1-25-2008	Amend	3-1-2008
409-023-0010	7-1-2008	Adopt	8-1-2008	410-050-0401	1-25-2008	Amend	3-1-2008
409-023-0015	7-1-2008	Adopt	8-1-2008	410-050-0411	1-25-2008	Amend	3-1-2008
409-023-0020	7-1-2008	Adopt	8-1-2008	410-050-0421	1-25-2008	Amend	3-1-2008
409-023-0025	7-1-2008	Adopt	8-1-2008	410-050-0431	1-25-2008	Amend	3-1-2008
409-023-0030	7-1-2008	Adopt	8-1-2008	410-050-0441	1-25-2008	Repeal	3-1-2008
409-023-0035	7-1-2008	Adopt	8-1-2008	410-050-0451	1-25-2008	Amend	3-1-2008
409-023-0100	7-1-2008	Adopt	8-1-2008	410-050-0461	1-25-2008	Amend	3-1-2008
409-023-0105	7-1-2008	Adopt	8-1-2008	410-050-0471	1-25-2008	Amend	3-1-2008
410-001-0100	1-1-2008	Amend(T)	2-1-2008	410-050-0481	1-25-2008	Amend	3-1-2008
410-001-0100	2-1-2008	Am. & Ren.	3-1-2008	410-050-0491	1-25-2008	Amend	3-1-2008
410-001-0100(T)	2-1-2008	Repeal	3-1-2008	410-050-0491	9-1-2008	Amend	10-1-2008
410-001-0110	1-1-2008	Amend(T)	2-1-2008	410-050-0501	1-25-2008	Amend	3-1-2008
410-001-0110	2-1-2008	Am. & Ren.	3-1-2008	410-050-0511	1-25-2008	Amend	3-1-2008
410-001-0110(T)	2-1-2008	Repeal	3-1-2008	410-050-0511	9-1-2008	Amend	10-1-2008
410-001-0120	1-1-2008	Amend(T)	2-1-2008	410-050-0521	1-25-2008	Amend	3-1-2008
410-001-0120	2-1-2008	Am. & Ren.	3-1-2008	410-050-0531	1-25-2008	Amend	3-1-2008
410-001-0120(T)	2-1-2008	Repeal	3-1-2008	410-050-0541	1-25-2008	Amend	3-1-2008
410-001-0130	1-1-2008	Amend(T)	2-1-2008	410-050-0551	1-25-2008	Amend	3-1-2008
410-001-0130	2-1-2008	Am. & Ren.	3-1-2008	410-050-0561	1-25-2008	Amend	3-1-2008
410-001-0130(T)	2-1-2008	Repeal	3-1-2008	410-050-0571	1-25-2008	Repeal	3-1-2008
410-001-0140	1-1-2008	Amend(T)	2-1-2008	410-050-0581	1-25-2008	Repeal	3-1-2008
410-001-0140	2-1-2008	Am. & Ren.	3-1-2008	410-050-0591	1-25-2008	Amend	3-1-2008
410-001-0140(T)	2-1-2008	Repeal	3-1-2008	410-050-0601	1-25-2008	Adopt	3-1-2008
410-001-0150	1-1-2008	Amend(T)	2-1-2008	410-050-0700	1-25-2008	Amend	3-1-2008
410-001-0150	2-1-2008	Am. & Ren.	3-1-2008	410-050-0710	1-25-2008	Amend	3-1-2008
410-001-0150(T)	2-1-2008	Repeal	3-1-2008	410-050-0720	1-25-2008	Amend	3-1-2008
410-001-0160	1-1-2008	Amend(T)	2-1-2008	410-050-0730	1-25-2008	Amend	3-1-2008
410-001-0160	2-1-2008	Am. & Ren.	3-1-2008	410-050-0740	1-25-2008	Amend	3-1-2008
410-001-0160(T)	2-1-2008	Repeal	3-1-2008	410-050-0750	1-25-2008	Amend	3-1-2008
410-001-0170	1-1-2008	Amend(T)	2-1-2008	410-050-0750	6-12-2008	Amend(T)	7-1-2008
410-001-0170	2-1-2008	Am. & Ren.	3-1-2008	410-050-0750	9-1-2008	Amend	10-1-2008
410-001-0170(T)	2-1-2008	Repeal	3-1-2008	410-050-0750(T)	9-1-2008	Repeal	10-1-2008
410-001-0180	1-1-2008	Amend(T)	2-1-2008	410-050-0760	1-25-2008	Amend	3-1-2008
410-001-0180	2-1-2008	Am. & Ren.	3-1-2008	410-050-0770	1-25-2008	Amend	3-1-2008
410-001-0180(T)	2-1-2008	Repeal	3-1-2008	410-050-0780	1-25-2008	Amend	3-1-2008
410-001-0190	1-1-2008	Amend(T)	2-1-2008	410-050-0790	1-25-2008	Amend	3-1-2008
410-001-0190	2-1-2008	Am. & Ren.	3-1-2008	410-050-0800	1-25-2008	Amend	3-1-2008
410-001-0190(T)	2-1-2008	Repeal	3-1-2008	410-050-0810	1-25-2008	Amend	3-1-2008
410-001-0200	1-1-2008	Amend(T)	2-1-2008	410-050-0810	9-1-2008	Amend	10-1-2008
410-001-0200	2-1-2008	Am. & Ren.	3-1-2008	410-050-0820	1-25-2008	Amend	3-1-2008

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410-050-0830	1-25-2008	Amend	3-1-2008	410-122-0330	1-1-2008	Amend	1-1-2008
410-050-0840	1-25-2008	Amend	3-1-2008	410-122-0365	7-1-2008	Amend	7-1-2008
410-050-0850	1-25-2008	Amend	3-1-2008	410-122-0380	1-1-2008	Amend	1-1-2008
410-050-0860	1-25-2008	Amend	3-1-2008	410-122-0400	7-1-2008	Amend	7-1-2008
410-050-0861	1-1-2008	Amend	2-1-2008	410-122-0475	7-1-2008	Amend	7-1-2008
410-050-0861	1-25-2008	Amend	3-1-2008	410-122-0500	7-1-2008	Amend	7-1-2008
410-050-0870	1-25-2008	Amend	3-1-2008	410-122-0520	7-1-2008	Amend	7-1-2008
410-120-0000	1-1-2008	Amend	1-1-2008	410-122-0540	7-1-2008	Amend	7-1-2008
410-120-0010	12-5-2007	Adopt(T)	1-1-2008	410-122-0658	7-1-2008	Adopt	7-1-2008
410-120-0025	3-14-2008	Amend(T)	4-1-2008	410-122-0660	7-1-2008	Amend	7-1-2008
410-120-0025	5-1-2008	Amend	6-1-2008	410-122-0662	1-1-2008	Adopt	1-1-2008
410-120-0025(T)	5-1-2008	Repeal	6-1-2008	410-122-0678	1-1-2008	Amend	1-1-2008
410-120-0030	4-1-2008	Adopt(T)	5-1-2008	410-122-0720	1-1-2008	Amend	1-1-2008
410-120-0030	7-1-2008	Amend	7-1-2008	410-122-0720	7-1-2008	Amend	7-1-2008
410-120-0030(T)	7-1-2008	Repeal	7-1-2008	410-123-1000	1-1-2008	Amend	1-1-2008
410-120-0035	7-1-2008	Adopt(T)	7-1-2008	410-123-1000	7-1-2008	Amend	7-1-2008
410-120-0035	9-15-2008	Adopt	10-1-2008	410-123-1040	1-1-2008	Repeal	1-1-2008
410-120-0035(T)	9-15-2008	Repeal	10-1-2008	410-123-1060	1-1-2008	Amend	1-1-2008
410-120-1200	1-1-2008	Amend	1-1-2008	410-123-1100	1-1-2008	Amend	1-1-2008
410-120-1200	7-1-2008	Amend	7-1-2008	410-123-1160	1-1-2008	Amend	1-1-2008
410-120-1230	3-1-2008	Amend	4-1-2008	410-123-1200	1-1-2008	Amend	1-1-2008
410-120-1295	1-1-2008	Amend	1-1-2008	410-123-1220	1-1-2008	Amend	1-1-2008
410-120-1320	1-1-2008	Amend	1-1-2008	410-123-1240	1-1-2008	Amend	1-1-2008
410-120-1340	1-1-2008	Amend	1-1-2008	410-123-1260	1-1-2008	Amend	1-1-2008
410-120-1397	1-1-2008	Amend	1-1-2008	410-123-1260	7-1-2008	Amend	7-1-2008
410-120-1560	1-1-2008	Amend	1-1-2008	410-123-1490	1-1-2008	Amend	1-1-2008
410-120-1570	1-1-2008	Amend	1-1-2008	410-123-1540	7-1-2008	Amend	7-1-2008
410-121-0021	7-1-2008	Amend	7-1-2008	410-123-1620	1-1-2008	Amend	1-1-2008
410-121-0030	7-1-2008	Amend	7-1-2008	410-123-1670	1-1-2008	Amend	1-1-2008
410-121-0032	7-1-2008	Amend	7-1-2008	410-123-1670	7-1-2008	Amend	7-1-2008
410-121-0040	1-1-2008	Amend	1-1-2008	410-125-0000	7-1-2008	Amend	7-1-2008
410-121-0040	4-1-2008	Amend	5-1-2008	410-125-0047	7-1-2008	Amend	7-1-2008
410-121-0040	7-1-2008	Amend	7-1-2008	410-125-0080	12-20-2007	Amend(T)	2-1-2008
410-121-0135	1-1-2008	Amend	1-1-2008	410-125-0080	5-1-2008	Amend	6-1-2008
410-121-0140	1-1-2008	Amend	1-1-2008	410-125-0080	7-1-2008	Amend	7-1-2008
410-121-0145	4-1-2008	Amend	5-1-2008	410-125-0141	7-1-2008	Amend	7-1-2008
410-121-0146	1-1-2008	Amend	1-1-2008	410-125-0220	7-1-2008	Amend	7-1-2008
410-121-0147	4-1-2008	Amend	5-1-2008	410-125-0360	7-1-2008	Amend	7-1-2008
410-121-0148	1-1-2008	Amend	1-1-2008	410-125-0400	7-1-2008	Amend	7-1-2008
410-121-0150	1-1-2008	Amend	1-1-2008	410-125-0600	7-1-2008	Amend	7-1-2008
410-121-0151	11-14-2008	Adopt(T)	11-1-2008	410-125-0720	7-1-2008	Amend	7-1-2008
410-121-0155	1-1-2008	Amend	1-1-2008	410-127-0060	1-1-2008	Amend	1-1-2008
410-121-0157	7-1-2008	Amend	7-1-2008	410-129-0070	1-1-2008	Amend	1-1-2008
410-121-0160	1-1-2008	Amend	1-1-2008	410-129-0200	1-1-2008	Amend	1-1-2008
410-121-0300	1-1-2008	Amend	1-1-2008	410-130-0000	7-1-2008	Amend	7-1-2008
410-122-0020	7-1-2008	Amend	7-1-2008	410-130-0180	7-1-2008	Amend	7-1-2008
410-122-0080	7-1-2008	Amend	7-1-2008	410-130-0190	7-1-2008	Amend	7-1-2008
410-122-0184	7-1-2008	Amend	7-1-2008	410-130-0200	12-20-2007	Amend(T)	2-1-2008
410-122-0186	7-1-2008	Amend	7-1-2008	410-130-0200	5-1-2008	Amend	6-1-2008
410-122-0202	1-1-2008	Amend	1-1-2008	410-130-0200	7-1-2008	Amend	7-1-2008
410-122-0202	7-1-2008	Amend	7-1-2008	410-130-0220	7-1-2008	Amend	7-1-2008
410-122-0203	1-1-2008	Amend	1-1-2008	410-130-0255	7-1-2008	Amend	7-1-2008
410-122-0250	7-1-2008	Amend	7-1-2008	410-130-0580	12-20-2007	Amend(T)	2-1-2008
410-122-0300	7-1-2008	Amend	7-1-2008	410-130-0580	5-1-2008	Amend	6-1-2008
410-122-0320	1-1-2008	Amend	1-1-2008	410-130-0610	4-1-2008	Amend(T)	5-1-2008
410-122-0320	7-1-2008	Amend	7-1-2008	410-130-0610	7-1-2008	Amend	7-1-2008
410-122-0325	1-1-2008	Amend	1-1-2008	410-130-0680	7-1-2008	Amend	7-1-2008
410-122-0325	7-1-2008	Amend	7-1-2008	410-133-0090	7-1-2008	Amend(T)	8-1-2008

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410-133-0090	10-2-2008	Amend(T)	11-1-2008	410-146-0000	1-1-2008	Amend	1-1-2008
410-133-0090(T)	10-2-2008	Suspend	11-1-2008	410-146-0020	1-1-2008	Amend	1-1-2008
410-133-0100	7-1-2008	Amend(T)	8-1-2008	410-146-0021	1-1-2008	Amend	1-1-2008
410-133-0220	7-1-2008	Amend(T)	8-1-2008	410-146-0025	1-1-2008	Repeal	1-1-2008
410-133-0220	10-2-2008	Amend(T)	11-1-2008	410-146-0040	1-1-2008	Amend	1-1-2008
410-133-0220(T)	10-2-2008	Suspend	11-1-2008	410-146-0060	1-1-2008	Amend	1-1-2008
410-138-0000	10-2-2008	Amend(T)	11-1-2008	410-146-0075	1-1-2008	Amend	1-1-2008
410-138-0005	10-2-2008	Adopt(T)	11-1-2008	410-146-0080	1-1-2008	Am. & Ren.	1-1-2008
410-138-0007	10-2-2008	Adopt(T)	11-1-2008	410-146-0080	1-1-2008	Am. & Ren.	1-1-2008
410-138-0009	10-2-2008	Adopt(T)	11-1-2008	410-146-0080	1-1-2008	Amend	1-1-2008
410-138-0020	10-2-2008	Amend(T)	11-1-2008	410-146-0100	1-1-2008	Amend	1-1-2008
410-138-0080	7-1-2008	Amend(T)	8-1-2008	410-146-0120	1-1-2008	Amend	1-1-2008
410-138-0080	10-2-2008	Amend(T)	11-1-2008	410-146-0130	1-1-2008	Amend	1-1-2008
410-138-0080(T)	10-2-2008	Suspend	11-1-2008	410-146-0140	1-1-2008	Amend	1-1-2008
410-138-0300	10-2-2008	Amend(T)	11-1-2008	410-146-0160	1-1-2008	Amend	1-1-2008
410-138-0320	10-2-2008	Amend(T)	11-1-2008	410-146-0180	1-1-2008	Repeal	1-1-2008
410-138-0380	7-1-2008	Amend(T)	8-1-2008	410-146-0200	1-1-2008	Amend	1-1-2008
410-138-0380	10-2-2008	Amend(T)	11-1-2008	410-146-0200	7-1-2008	Amend	7-1-2008
410-138-0380(T)	10-2-2008	Suspend	11-1-2008	410-146-0220	1-1-2008	Amend	1-1-2008
410-138-0500	10-2-2008	Amend(T)	11-1-2008	410-146-0240	1-1-2008	Amend	1-1-2008
410-138-0520	10-2-2008	Amend(T)	11-1-2008	410-146-0340	1-1-2008	Amend	1-1-2008
410-138-0560	7-1-2008	Amend(T)	8-1-2008	410-146-0380	1-1-2008	Amend	1-1-2008
410-138-0560	10-2-2008	Amend(T)	11-1-2008	410-146-0380	7-1-2008	Amend	7-1-2008
410-138-0560(T)	10-2-2008	Suspend	11-1-2008	410-146-0400	1-1-2008	Repeal	1-1-2008
410-138-0600	10-2-2008	Amend(T)	11-1-2008	410-146-0420	1-1-2008	Repeal	1-1-2008
410-138-0620	10-2-2008	Amend(T)	11-1-2008	410-146-0440	1-1-2008	Amend	1-1-2008
410-138-0680	7-1-2008	Amend(T)	8-1-2008	410-146-0440	7-1-2008	Amend	7-1-2008
410-138-0680	10-2-2008	Amend(T)	11-1-2008	410-146-0460	1-1-2008	Amend	1-1-2008
410-138-0680(T)	10-2-2008	Suspend	11-1-2008	410-147-0040	7-1-2008	Amend	7-1-2008
410-138-0700	10-2-2008	Amend(T)	11-1-2008	410-147-0080	7-1-2008	Amend	7-1-2008
410-138-0720	10-2-2008	Amend(T)	11-1-2008	410-147-0125	7-1-2008	Amend	7-1-2008
410-138-0740	7-1-2008	Amend(T)	8-1-2008	410-147-0280	7-1-2008	Amend	7-1-2008
410-138-0740	10-2-2008	Amend(T)	11-1-2008	410-147-0320	7-1-2008	Amend	7-1-2008
410-138-0740(T)	10-2-2008	Suspend	11-1-2008	410-147-0340	7-1-2008	Amend	7-1-2008
410-138-0780	7-1-2008	Amend(T)	8-1-2008	410-147-0360	7-1-2008	Amend	7-1-2008
410-138-0780	10-2-2008	Amend(T)	11-1-2008	410-147-0365	1-1-2008	Amend	1-1-2008
410-138-0780(T)	10-2-2008	Suspend	11-1-2008	410-147-0460	7-1-2008	Amend	7-1-2008
410-140-0040	7-1-2008	Amend	7-1-2008	410-148-0060	7-1-2008	Amend	7-1-2008
410-140-0050	7-1-2008	Amend	7-1-2008	410-148-0140	7-1-2008	Amend	7-1-2008
410-140-0160	7-1-2008	Amend	7-1-2008	411-027-0000	6-1-2008	Am. & Ren.	7-1-2008
410-140-0260	7-1-2008	Amend	7-1-2008	411-027-0005	6-1-2008	Adopt	7-1-2008
410-140-0320	7-1-2008	Amend	7-1-2008	411-027-0025	6-1-2008	Amend	7-1-2008
410-140-0400	7-1-2008	Amend	7-1-2008	411-027-0050	6-1-2008	Amend	7-1-2008
410-141-0180	1-1-2008	Amend	1-1-2008	411-027-0075	6-1-2008	Amend	7-1-2008
410-141-0260	7-1-2008	Amend	7-1-2008	411-027-0150	6-1-2008	Amend	7-1-2008
410-141-0261	7-1-2008	Amend	7-1-2008	411-027-0200	6-1-2008	Repeal	7-1-2008
410-141-0262	7-1-2008	Amend	7-1-2008	411-030-0020	4-1-2008	Amend(T)	5-1-2008
410-141-0263	7-1-2008	Amend	7-1-2008	411-030-0020	9-24-2008	Amend	11-1-2008
410-141-0264	7-1-2008	Amend	7-1-2008	411-030-0020(T)	9-24-2008	Repeal	11-1-2008
410-141-0265	7-1-2008	Amend	7-1-2008	411-030-0040	4-1-2008	Amend(T)	5-1-2008
410-141-0480	1-1-2008	Amend	1-1-2008	411-030-0040	9-24-2008	Amend	11-1-2008
410-141-0520	12-20-2007	Amend(T)	2-1-2008	411-030-0040(T)	9-24-2008	Repeal	11-1-2008
410-141-0520	3-27-2008	Amend	5-1-2008	411-030-0050	4-1-2008	Amend(T)	5-1-2008
410-141-0520	4-1-2008	Amend(T)	5-1-2008	411-030-0050	9-24-2008	Amend	11-1-2008
410-141-0520	7-1-2008	Amend	7-1-2008	411-030-0050(T)	9-24-2008	Repeal	11-1-2008
410-141-0520	10-1-2008	Amend(T)	11-1-2008	411-030-0070	4-1-2008	Amend(T)	5-1-2008
410-141-0520(T)	12-20-2007	Suspend	2-1-2008	411-030-0070	9-24-2008	Amend	11-1-2008
410-142-0020	1-1-2008	Amend	1-1-2008	411-030-0070(T)	9-24-2008	Repeal	11-1-2008

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411-030-0100	4-1-2008	Adopt(T)	5-1-2008	411-070-0085(T)	3-1-2008	Repeal	4-1-2008
411-030-0100	9-24-2008	Adopt	11-1-2008	411-070-0091	3-1-2008	Amend	4-1-2008
411-030-0100(T)	9-24-2008	Repeal	11-1-2008	411-070-0091(T)	3-1-2008	Repeal	4-1-2008
411-031-0040	4-29-2008	Amend	6-1-2008	411-070-0095	3-1-2008	Amend	4-1-2008
411-031-0040(T)	4-29-2008	Repeal	6-1-2008	411-070-0095(T)	3-1-2008	Repeal	4-1-2008
411-036-0000	4-1-2008	Suspend	5-1-2008	411-070-0359	3-1-2008	Amend	4-1-2008
411-036-0000	9-24-2008	Repeal	11-1-2008	411-070-0359(T)	3-1-2008	Repeal	4-1-2008
411-036-0010	4-1-2008	Suspend	5-1-2008	411-070-0428	3-1-2008	Repeal	4-1-2008
411-036-0010	9-24-2008	Repeal	11-1-2008	411-070-0442	3-1-2008	Amend	4-1-2008
411-036-0020	4-1-2008	Suspend	5-1-2008	411-070-0442(T)	3-1-2008	Repeal	4-1-2008
411-036-0020	9-24-2008	Repeal	11-1-2008	411-070-0452	3-1-2008	Amend	4-1-2008
411-036-0030	4-1-2008	Suspend	5-1-2008	411-070-0452(T)	3-1-2008	Repeal	4-1-2008
411-036-0030	9-24-2008	Repeal	11-1-2008	411-070-0462	3-1-2008	Repeal	4-1-2008
411-036-0040	4-1-2008	Suspend	5-1-2008	411-070-0465	3-1-2008	Amend	4-1-2008
411-036-0040	9-24-2008	Repeal	11-1-2008	411-070-0465(T)	3-1-2008	Repeal	4-1-2008
411-036-0045	4-1-2008	Suspend	5-1-2008	411-085-0005	3-1-2008	Amend(T)	3-1-2008
411-036-0045	9-24-2008	Repeal	11-1-2008	411-085-0005	8-28-2008	Amend	10-1-2008
411-036-0050	4-1-2008	Suspend	5-1-2008	411-085-0005(T)	8-28-2008	Repeal	10-1-2008
411-036-0050	9-24-2008	Repeal	11-1-2008	411-085-0200	3-6-2008	Amend	4-1-2008
411-036-0060	4-1-2008	Suspend	5-1-2008	411-085-0310	3-6-2008	Amend	4-1-2008
411-036-0060	9-24-2008	Repeal	11-1-2008	411-086-0100	3-1-2008	Amend(T)	3-1-2008
411-036-0070	4-1-2008	Suspend	5-1-2008	411-086-0100	8-28-2008	Amend	10-1-2008
411-036-0070	9-24-2008	Repeal	11-1-2008	411-086-0100(T)	8-28-2008	Repeal	10-1-2008
411-036-0080	4-1-2008	Suspend	5-1-2008	411-086-0200	3-6-2008	Amend	4-1-2008
411-036-0080	9-24-2008	Repeal	11-1-2008	411-088-0070	3-6-2008	Amend	4-1-2008
411-036-0090	4-1-2008	Suspend	5-1-2008	411-325-0185	9-11-2008	Adopt	10-1-2008
411-036-0090	9-24-2008	Repeal	11-1-2008	411-325-0230	9-11-2008	Amend	10-1-2008
411-036-0100	4-1-2008	Suspend	5-1-2008	411-325-0270	9-11-2008	Amend	10-1-2008
411-036-0100	9-24-2008	Repeal	11-1-2008	411-325-0280	9-11-2008	Amend	10-1-2008
411-036-0110	4-1-2008	Suspend	5-1-2008	411-330-0020	12-28-2007	Amend	2-1-2008
411-036-0110	9-24-2008	Repeal	11-1-2008	411-330-0020(T)	12-28-2007	Repeal	2-1-2008
411-036-0120	4-1-2008	Suspend	5-1-2008	411-330-0030	12-28-2007	Amend	2-1-2008
411-036-0120	9-24-2008	Repeal	11-1-2008	411-330-0030(T)	12-28-2007	Repeal	2-1-2008
411-036-0130	4-1-2008	Suspend	5-1-2008	411-340-0010	6-29-2008	Amend	8-1-2008
411-036-0130	9-24-2008	Repeal	11-1-2008	411-340-0020	1-1-2008	Amend(T)	2-1-2008
411-036-0140	4-1-2008	Suspend	5-1-2008	411-340-0020	6-29-2008	Amend	8-1-2008
411-036-0140	9-24-2008	Repeal	11-1-2008	411-340-0020(T)	6-29-2008	Repeal	8-1-2008
411-048-0000	7-1-2008	Amend(T)	8-1-2008	411-340-0030	6-29-2008	Amend	8-1-2008
411-048-0010	7-1-2008	Amend(T)	8-1-2008	411-340-0040	6-29-2008	Amend	8-1-2008
411-048-0020	7-1-2008	Amend(T)	8-1-2008	411-340-0050	6-29-2008	Amend	8-1-2008
411-048-0030	7-1-2008	Amend(T)	8-1-2008	411-340-0060	1-1-2008	Amend(T)	2-1-2008
411-048-0040	7-1-2008	Amend(T)	8-1-2008	411-340-0060	6-29-2008	Amend	8-1-2008
411-048-0050	7-1-2008	Amend(T)	8-1-2008	411-340-0060(T)	6-29-2008	Repeal	8-1-2008
411-048-0060	7-1-2008	Amend(T)	8-1-2008	411-340-0070	1-1-2008	Amend(T)	2-1-2008
411-048-0070	7-1-2008	Amend(T)	8-1-2008	411-340-0070	6-29-2008	Amend	8-1-2008
411-048-0080	7-1-2008	Amend(T)	8-1-2008	411-340-0070(T)	6-29-2008	Repeal	8-1-2008
411-048-0100	7-1-2008	Amend(T)	8-1-2008	411-340-0080	6-29-2008	Amend	8-1-2008
411-048-0120	7-1-2008	Amend(T)	8-1-2008	411-340-0090	6-29-2008	Amend	8-1-2008
411-048-0130	7-1-2008	Amend(T)	8-1-2008	411-340-0100	6-29-2008	Amend	8-1-2008
411-054-0125	9-18-2008	Adopt(T)	11-1-2008	411-340-0110	6-29-2008	Amend	8-1-2008
411-070-0005	3-1-2008	Amend	4-1-2008	411-340-0120	6-29-2008	Amend	8-1-2008
411-070-0005(T)	3-1-2008	Repeal	4-1-2008	411-340-0130	1-1-2008	Amend(T)	2-1-2008
411-070-0027	3-1-2008	Amend	4-1-2008	411-340-0130	6-29-2008	Amend	8-1-2008
411-070-0027(T)	3-1-2008	Repeal	4-1-2008	411-340-0130(T)	6-29-2008	Repeal	8-1-2008
411-070-0035	3-1-2008	Amend	4-1-2008	411-340-0140	6-29-2008	Amend	8-1-2008
411-070-0035(T)	3-1-2008	Repeal	4-1-2008	411-340-0150	1-1-2008	Amend(T)	2-1-2008
411-070-0045	3-1-2008	Amend	4-1-2008	411-340-0150	6-29-2008	Amend	8-1-2008
411-070-0085	3-1-2008	Amend	4-1-2008	411-340-0150(T)	6-29-2008	Repeal	8-1-2008

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411-340-0170	1-1-2008	Amend(T)	2-1-2008	413-015-0115	4-1-2008	Amend	5-1-2008
411-340-0170	6-29-2008	Amend	8-1-2008	413-015-0115(T)	12-3-2007	Suspend	1-1-2008
411-340-0170(T)	6-29-2008	Repeal	8-1-2008	413-015-0115(T)	1-1-2008	Suspend	2-1-2008
411-340-0180	6-29-2008	Amend	8-1-2008	413-015-0205	12-3-2007	Amend(T)	1-1-2008
411-355-0000	4-15-2008	Adopt(T)	5-1-2008	413-015-0205	1-1-2008	Amend(T)	2-1-2008
411-355-0000	10-9-2008	Adopt	11-1-2008	413-015-0205	4-1-2008	Amend	5-1-2008
411-355-0000(T)	10-9-2008	Repeal	11-1-2008	413-015-0205	6-28-2008	Amend(T)	8-1-2008
411-355-0010	4-15-2008	Adopt(T)	5-1-2008	413-015-0205	9-2-2008	Amend	10-1-2008
411-355-0010	10-9-2008	Adopt	11-1-2008	413-015-0205(T)	1-1-2008	Suspend	2-1-2008
411-355-0010(T)	10-9-2008	Repeal	11-1-2008	413-015-0205(T)	9-2-2008	Repeal	10-1-2008
411-355-0020	4-15-2008	Adopt(T)	5-1-2008	413-015-0210	1-1-2008	Amend(T)	2-1-2008
411-355-0020	10-9-2008	Adopt	11-1-2008	413-015-0210	6-28-2008	Amend	8-1-2008
411-355-0020(T)	10-9-2008	Repeal	11-1-2008	413-015-0211	1-1-2008	Amend(T)	2-1-2008
411-355-0030	4-15-2008	Adopt(T)	5-1-2008	413-015-0211	6-28-2008	Amend	8-1-2008
411-355-0030	10-9-2008	Adopt	11-1-2008	413-015-0212	1-1-2008	Amend(T)	2-1-2008
411-355-0030(T)	10-9-2008	Repeal	11-1-2008	413-015-0212	6-28-2008	Amend	8-1-2008
411-355-0040	4-15-2008	Adopt(T)	5-1-2008	413-015-0215	1-1-2008	Amend(T)	2-1-2008
411-355-0040	10-9-2008	Adopt	11-1-2008	413-015-0215	6-28-2008	Amend	8-1-2008
411-355-0040(T)	10-9-2008	Repeal	11-1-2008	413-015-0220	1-1-2008	Amend(T)	2-1-2008
411-355-0050	4-15-2008	Adopt(T)	5-1-2008	413-015-0220	6-28-2008	Amend	8-1-2008
411-355-0050	10-9-2008	Adopt	11-1-2008	413-015-0405	1-1-2008	Amend(T)	2-1-2008
411-355-0050(T)	10-9-2008	Repeal	11-1-2008	413-015-0405	6-28-2008	Amend	8-1-2008
411-355-0060	4-15-2008	Adopt(T)	5-1-2008	413-015-0409	6-28-2008	Amend(T)	8-1-2008
411-355-0060	10-9-2008	Adopt	11-1-2008	413-015-0409	9-2-2008	Amend	10-1-2008
411-355-0060(T)	10-9-2008	Repeal	11-1-2008	413-015-0409(T)	9-2-2008	Repeal	10-1-2008
411-355-0070	4-15-2008	Adopt(T)	5-1-2008	413-015-0415	1-1-2008	Amend(T)	2-1-2008
411-355-0070	10-9-2008	Adopt	11-1-2008	413-015-0415	4-1-2008	Amend	5-1-2008
411-355-0070(T)	10-9-2008	Repeal	11-1-2008	413-015-0415	6-28-2008	Amend(T)	8-1-2008
411-355-0080	4-15-2008	Adopt(T)	5-1-2008	413-015-0415	9-2-2008	Amend	10-1-2008
411-355-0080	10-9-2008	Adopt	11-1-2008	413-015-0415(T)	1-1-2008	Suspend	2-1-2008
411-355-0080(T)	10-9-2008	Repeal	11-1-2008	413-015-0415(T)	9-2-2008	Repeal	10-1-2008
411-355-0090	4-15-2008	Adopt(T)	5-1-2008	413-015-0420	4-1-2008	Amend	5-1-2008
411-355-0090	10-9-2008	Adopt	11-1-2008	413-015-0520	1-1-2008	Adopt(T)	2-1-2008
411-355-0090(T)	10-9-2008	Repeal	11-1-2008	413-015-0520	6-28-2008	Adopt	8-1-2008
411-355-0100	4-15-2008	Adopt(T)	5-1-2008	413-015-0525	1-1-2008	Adopt(T)	2-1-2008
411-355-0100	10-9-2008	Adopt	11-1-2008	413-015-0525	6-28-2008	Adopt	8-1-2008
411-355-0100(T)	10-9-2008	Repeal	11-1-2008	413-015-0530	1-1-2008	Adopt(T)	2-1-2008
411-355-0110	4-15-2008	Adopt(T)	5-1-2008	413-015-0530	6-28-2008	Adopt	8-1-2008
411-355-0110	10-9-2008	Adopt	11-1-2008	413-015-0535	1-1-2008	Adopt(T)	2-1-2008
411-355-0110(T)	10-9-2008	Repeal	11-1-2008	413-015-0535	6-28-2008	Adopt	8-1-2008
411-355-0120	4-15-2008	Adopt(T)	5-1-2008	413-015-0540	1-1-2008	Adopt(T)	2-1-2008
411-355-0120	10-9-2008	Adopt	11-1-2008	413-015-0540	6-28-2008	Adopt	8-1-2008
411-355-0120(T)	10-9-2008	Repeal	11-1-2008	413-015-0545	1-1-2008	Adopt(T)	2-1-2008
413-010-0400	12-1-2007	Amend	1-1-2008	413-015-0545	6-28-2008	Adopt	8-1-2008
413-010-0410	12-1-2007	Amend	1-1-2008	413-015-0550	1-1-2008	Adopt(T)	2-1-2008
413-010-0420	12-1-2007	Amend	1-1-2008	413-015-0550	6-28-2008	Adopt	8-1-2008
413-010-0430	12-1-2007	Amend	1-1-2008	413-015-0555	1-1-2008	Adopt(T)	2-1-2008
413-010-0440	12-1-2007	Amend	1-1-2008	413-015-0555	6-28-2008	Adopt	8-1-2008
413-010-0450	12-1-2007	Repeal	1-1-2008	413-015-0560	1-1-2008	Adopt(T)	2-1-2008
413-010-0460	12-1-2007	Repeal	1-1-2008	413-015-0560	6-28-2008	Adopt	8-1-2008
413-010-0470	12-1-2007	Repeal	1-1-2008	413-015-0565	1-1-2008	Adopt(T)	2-1-2008
413-010-0480	12-1-2007	Amend	1-1-2008	413-015-0565	6-28-2008	Adopt	8-1-2008
413-010-0490	12-1-2007	Repeal	1-1-2008	413-015-1000	1-1-2008	Amend(T)	2-1-2008
413-015-0100	12-3-2007	Amend(T)	1-1-2008	413-015-1000	6-28-2008	Amend	8-1-2008
413-015-0100	4-1-2008	Amend	5-1-2008	413-015-1110	10-3-2008	Amend	11-1-2008
413-015-0110	4-1-2008	Amend	5-1-2008	413-015-1120	10-3-2008	Amend	11-1-2008
413-015-0115	12-3-2007	Amend(T)	1-1-2008	413-040-0005	8-1-2008	Amend	9-1-2008

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413-040-0009	8-1-2008	Amend	9-1-2008	413-100-0925	1-1-2008	Adopt(T)	2-1-2008
413-040-0010	8-1-2008	Amend	9-1-2008	413-100-0925	6-28-2008	Adopt	8-1-2008
413-040-0017	8-1-2008	Amend	9-1-2008	413-100-0930	1-1-2008	Adopt(T)	2-1-2008
413-040-0024	8-1-2008	Amend	9-1-2008	413-100-0930	6-28-2008	Adopt	8-1-2008
413-050-0200	4-1-2008	Amend	5-1-2008	413-100-0935	1-1-2008	Adopt(T)	2-1-2008
413-050-0200(T)	4-1-2008	Repeal	5-1-2008	413-100-0935	6-28-2008	Adopt	8-1-2008
413-050-0210	4-1-2008	Amend	5-1-2008	413-100-0940	1-1-2008	Adopt(T)	2-1-2008
413-050-0210(T)	4-1-2008	Repeal	5-1-2008	413-100-0940	6-28-2008	Adopt	8-1-2008
413-050-0220	4-1-2008	Amend	5-1-2008	413-120-0060	12-12-2007	Amend(T)	1-1-2008
413-050-0220(T)	4-1-2008	Repeal	5-1-2008	413-120-0060	6-1-2008	Amend	7-1-2008
413-050-0230	4-1-2008	Amend	5-1-2008	413-120-0060(T)	6-1-2008	Repeal	7-1-2008
413-050-0230(T)	4-1-2008	Repeal	5-1-2008	413-120-0400	1-1-2008	Amend(T)	2-1-2008
413-050-0235	4-1-2008	Adopt	5-1-2008	413-120-0400	5-15-2008	Amend	6-1-2008
413-050-0235(T)	4-1-2008	Repeal	5-1-2008	413-120-0400	10-1-2008	Amend(T)	11-1-2008
413-050-0240	4-1-2008	Repeal	5-1-2008	413-120-0400(T)	5-15-2008	Repeal	6-1-2008
413-050-0250	4-1-2008	Repeal	5-1-2008	413-120-0410	1-1-2008	Amend(T)	2-1-2008
413-050-0260	4-1-2008	Repeal	5-1-2008	413-120-0410	5-15-2008	Amend	6-1-2008
413-050-0270	4-1-2008	Repeal	5-1-2008	413-120-0410	10-1-2008	Amend(T)	11-1-2008
413-050-0280	4-1-2008	Amend	5-1-2008	413-120-0410(T)	5-15-2008	Repeal	6-1-2008
413-050-0280(T)	4-1-2008	Repeal	5-1-2008	413-120-0420	1-1-2008	Amend(T)	2-1-2008
413-050-0290	4-1-2008	Repeal	5-1-2008	413-120-0420	5-15-2008	Amend	6-1-2008
413-050-0300	4-1-2008	Repeal	5-1-2008	413-120-0420	10-1-2008	Amend(T)	11-1-2008
413-070-0600	1-1-2008	Amend(T)	2-1-2008	413-120-0420(T)	5-15-2008	Repeal	6-1-2008
413-070-0600	6-28-2008	Amend	8-1-2008	413-120-0430	1-1-2008	Suspend	2-1-2008
413-070-0620	1-1-2008	Amend(T)	2-1-2008	413-120-0430	5-15-2008	Repeal	6-1-2008
413-070-0620	6-28-2008	Amend	8-1-2008	413-120-0440	1-1-2008	Amend(T)	2-1-2008
413-070-0625	1-1-2008	Amend(T)	2-1-2008	413-120-0440	5-15-2008	Amend	6-1-2008
413-070-0625	6-28-2008	Amend	8-1-2008	413-120-0440	10-1-2008	Amend(T)	11-1-2008
413-070-0640	1-1-2008	Amend(T)	2-1-2008	413-120-0440(T)	5-15-2008	Repeal	6-1-2008
413-070-0640	6-28-2008	Amend	8-1-2008	413-120-0450	1-1-2008	Amend(T)	2-1-2008
413-070-0800	6-28-2008	Amend	8-1-2008	413-120-0450	5-15-2008	Amend	6-1-2008
413-070-0810	1-1-2008	Amend(T)	2-1-2008	413-120-0450	10-1-2008	Amend(T)	11-1-2008
413-070-0810	6-28-2008	Amend	8-1-2008	413-120-0450(T)	5-15-2008	Repeal	6-1-2008
413-070-0830	6-28-2008	Amend	8-1-2008	413-120-0455	1-1-2008	Amend(T)	2-1-2008
413-070-0855	6-28-2008	Amend	8-1-2008	413-120-0455	5-15-2008	Amend	6-1-2008
413-070-0860	1-1-2008	Amend(T)	2-1-2008	413-120-0455	10-1-2008	Amend(T)	11-1-2008
413-070-0860	6-28-2008	Amend	8-1-2008	413-120-0455(T)	5-15-2008	Repeal	6-1-2008
413-070-0870	6-28-2008	Amend	8-1-2008	413-120-0460	1-1-2008	Amend(T)	2-1-2008
413-070-0880	1-1-2008	Amend(T)	2-1-2008	413-120-0460	5-15-2008	Amend	6-1-2008
413-070-0880	6-28-2008	Amend	8-1-2008	413-120-0460	10-1-2008	Amend(T)	11-1-2008
413-080-0067	8-1-2008	Amend	9-1-2008	413-120-0460(T)	5-15-2008	Repeal	6-1-2008
413-090-0010	1-1-2008	Amend(T)	2-1-2008	413-120-0470	1-1-2008	Amend(T)	2-1-2008
413-090-0010	6-28-2008	Amend	8-1-2008	413-120-0470	5-15-2008	Amend	6-1-2008
413-100-0020	6-28-2008	Amend(T)	8-1-2008	413-120-0470	10-1-2008	Amend(T)	11-1-2008
413-100-0020	9-2-2008	Amend	10-1-2008	413-120-0470(T)	5-15-2008	Repeal	6-1-2008
413-100-0020(T)	9-2-2008	Repeal	10-1-2008	413-130-0000	7-1-2008	Amend	8-1-2008
413-100-0040	1-1-2008	Suspend	2-1-2008	413-130-0005	7-1-2008	Amend	8-1-2008
413-100-0040	6-28-2008	Repeal	8-1-2008	413-130-0005	10-1-2008	Repeal	11-1-2008
413-100-0900	1-1-2008	Adopt(T)	2-1-2008	413-130-0010	7-1-2008	Amend	8-1-2008
413-100-0900	6-28-2008	Adopt	8-1-2008	413-130-0020	7-1-2008	Amend	8-1-2008
413-100-0905	1-1-2008	Adopt(T)	2-1-2008	413-130-0030	7-1-2008	Amend	8-1-2008
413-100-0905	6-28-2008	Adopt	8-1-2008	413-130-0040	7-1-2008	Amend	8-1-2008
413-100-0910	1-1-2008	Adopt(T)	2-1-2008	413-130-0050	7-1-2008	Amend	8-1-2008
413-100-0910	6-28-2008	Adopt	8-1-2008	413-130-0060	7-1-2008	Amend	8-1-2008
413-100-0915	1-1-2008	Adopt(T)	2-1-2008	413-130-0070	7-1-2008	Amend	8-1-2008
413-100-0915	6-28-2008	Adopt	8-1-2008	413-130-0070	10-1-2008	Amend	11-1-2008
413-100-0920	1-1-2008	Adopt(T)	2-1-2008	413-130-0075	7-1-2008	Amend	8-1-2008

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413-130-0080	7-1-2008	Amend	8-1-2008	436-001-0252	7-1-2008	Amend	7-1-2008
413-130-0090	7-1-2008	Amend	8-1-2008	436-001-0265	7-1-2008	Amend	7-1-2008
413-130-0100	7-1-2008	Amend	8-1-2008	436-001-0296	7-1-2008	Amend	7-1-2008
413-130-0110	7-1-2008	Amend	8-1-2008	436-001-0300	7-1-2008	Amend	7-1-2008
413-130-0115	7-1-2008	Amend	8-1-2008	436-009-0003	7-7-2008	Amend(T)	8-1-2008
413-130-0120	7-1-2008	Amend	8-1-2008	436-009-0004	7-1-2008	Amend	7-1-2008
413-130-0125	7-1-2008	Amend	8-1-2008	436-009-0008	7-1-2008	Amend	7-1-2008
413-130-0127	7-1-2008	Amend	8-1-2008	436-009-0010	7-1-2008	Amend	7-1-2008
413-130-0130	7-1-2008	Amend	8-1-2008	436-009-0015	7-1-2008	Amend	7-1-2008
413-200-0210	1-1-2008	Amend(T)	2-1-2008	436-009-0020	7-1-2008	Amend	7-1-2008
413-200-0210	6-28-2008	Amend	8-1-2008	436-009-0020	7-7-2008	Amend(T)	8-1-2008
413-200-0220	1-1-2008	Amend(T)	2-1-2008	436-009-0022	7-7-2008	Amend(T)	8-1-2008
413-200-0220	6-28-2008	Amend	8-1-2008	436-009-0030	7-1-2008	Amend	7-1-2008
413-200-0272	10-1-2008	Amend(T)	11-1-2008	436-009-0030	7-7-2008	Amend(T)	8-1-2008
413-200-0274	10-1-2008	Amend(T)	11-1-2008	436-009-0040	7-1-2008	Amend	7-1-2008
413-200-0278	10-1-2008	Amend(T)	11-1-2008	436-009-0040	7-7-2008	Amend(T)	8-1-2008
413-200-0281	10-1-2008	Amend(T)	11-1-2008	436-009-0070	7-1-2008	Amend	7-1-2008
413-200-0283	10-1-2008	Amend(T)	11-1-2008	436-009-0090	7-1-2008	Amend	7-1-2008
413-200-0287	10-1-2008	Amend(T)	11-1-2008	436-009-0090	7-7-2008	Amend(T)	8-1-2008
413-200-0292	10-1-2008	Amend(T)	11-1-2008	436-010-0008	6-30-2008	Amend	7-1-2008
413-200-0306	10-1-2008	Amend(T)	11-1-2008	436-010-0210	1-2-2008	Amend(T)	1-1-2008
413-200-0314	10-1-2008	Amend(T)	11-1-2008	436-010-0210	6-30-2008	Amend	7-1-2008
413-200-0371	10-1-2008	Amend(T)	11-1-2008	436-010-0220	1-2-2008	Amend(T)	1-1-2008
413-200-0383	10-1-2008	Amend(T)	11-1-2008	436-010-0220	6-30-2008	Amend	7-1-2008
413-200-0404	1-1-2008	Adopt(T)	2-1-2008	436-010-0230	6-30-2008	Amend	7-1-2008
413-200-0404	6-28-2008	Adopt	8-1-2008	436-010-0240	6-30-2008	Amend	7-1-2008
413-200-0409	1-1-2008	Adopt(T)	2-1-2008	436-010-0280	1-2-2008	Amend(T)	1-1-2008
413-200-0409	6-28-2008	Adopt	8-1-2008	436-010-0280	6-30-2008	Amend	7-1-2008
413-200-0414	1-1-2008	Adopt(T)	2-1-2008	436-010-0330	6-30-2008	Amend	7-1-2008
413-200-0414	6-28-2008	Adopt	8-1-2008	436-015-0005	7-1-2008	Amend	7-1-2008
413-200-0419	1-1-2008	Adopt(T)	2-1-2008	436-015-0009	7-1-2008	Amend	7-1-2008
413-200-0419	6-28-2008	Adopt	8-1-2008	436-015-0010	7-1-2008	Amend	7-1-2008
413-200-0424	1-1-2008	Adopt(T)	2-1-2008	436-015-0020	7-1-2008	Amend	7-1-2008
413-200-0424	6-28-2008	Adopt	8-1-2008	436-015-0030	7-1-2008	Amend	7-1-2008
413-200-0424	7-17-2008	Amend(T)	9-1-2008	436-015-0040	7-1-2008	Amend	7-1-2008
413-200-0424	10-1-2008	Amend	11-1-2008	436-015-0110	7-1-2008	Amend	7-1-2008
413-200-0424(T)	10-1-2008	Repeal	11-1-2008	436-030-0003	7-1-2008	Amend	7-1-2008
414-205-0100	8-6-2008	Amend(T)	9-1-2008	436-035-0500	12-28-2007	Amend(T)	2-1-2008
414-205-0100	10-2-2008	Amend	11-1-2008	436-040-0003	7-1-2008	Amend	7-1-2008
414-350-0190	8-6-2008	Amend(T)	9-1-2008	436-040-0100	7-1-2008	Repeal	7-1-2008
414-350-0190	10-2-2008	Amend	11-1-2008	436-045-0003	7-1-2008	Amend	7-1-2008
415-010-0005	12-5-2007	Adopt(T)	1-1-2008	436-050-0002	7-1-2008	Amend	7-1-2008
415-010-0005	2-12-2008	Suspend	3-1-2008	436-050-0003	7-1-2008	Amend	7-1-2008
415-051-0045	12-11-2007	Amend	1-1-2008	436-050-0003	7-1-2009	Amend	11-1-2008
416-001-0005	6-9-2008	Amend	7-1-2008	436-050-0005	7-1-2008	Amend	7-1-2008
423-010-0023	5-30-2008	Amend(T)	7-1-2008	436-050-0005	7-1-2009	Amend	11-1-2008
423-010-0024	4-16-2008	Amend	6-1-2008	436-050-0008	7-1-2008	Amend	7-1-2008
436-001-0003	7-1-2008	Amend	7-1-2008	436-050-0015	7-1-2009	Amend	11-1-2008
436-001-0004	7-1-2008	Amend	7-1-2008	436-050-0025	7-1-2008	Adopt	7-1-2008
436-001-0005	7-1-2008	Amend	7-1-2008	436-050-0045	7-1-2008	Amend	7-1-2008
436-001-0009	7-1-2008	Amend	7-1-2008	436-050-0050	7-1-2008	Amend	7-1-2008
436-001-0019	7-1-2008	Amend	7-1-2008	436-050-0060	7-1-2009	Amend	11-1-2008
436-001-0023	7-1-2008	Amend	7-1-2008	436-050-0070	7-1-2009	Repeal	11-1-2008
436-001-0027	7-1-2008	Amend	7-1-2008	436-050-0080	7-1-2009	Repeal	11-1-2008
436-001-0030	7-1-2008	Amend	7-1-2008	436-050-0090	7-1-2009	Repeal	11-1-2008
436-001-0170	7-1-2008	Amend	7-1-2008	436-050-0100	7-1-2008	Amend	7-1-2008
436-001-0240	7-1-2008	Amend	7-1-2008	436-050-0100	7-1-2009	Repeal	11-1-2008
436-001-0246	7-1-2008	Amend	7-1-2008	436-050-0110	7-1-2008	Amend	7-1-2008

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436-050-0120	7-1-2008	Amend	7-1-2008	437-002-0080	5-30-2008	Amend	7-1-2008
436-050-0120	7-1-2009	Amend	11-1-2008	437-002-0100	12-3-2007	Amend	1-1-2008
436-050-0170	7-1-2008	Amend	7-1-2008	437-002-0100	5-30-2008	Amend	7-1-2008
436-050-0175	7-1-2008	Amend	7-1-2008	437-002-0120	5-15-2008	Amend	6-1-2008
436-050-0190	7-1-2008	Amend	7-1-2008	437-002-0122	12-3-2007	Adopt	1-1-2008
436-050-0200	7-1-2008	Amend	7-1-2008	437-002-0140	5-30-2008	Amend	7-1-2008
436-050-0200	7-1-2009	Amend	11-1-2008	437-002-0142	5-1-2008	Amend	5-1-2008
436-050-0210	7-1-2008	Amend	7-1-2008	437-002-0182	1-1-2009	Amend	11-1-2008
436-050-0220	7-1-2008	Amend	7-1-2008	437-002-0260	5-30-2008	Amend	7-1-2008
436-050-0400	7-1-2009	Amend	11-1-2008	437-002-0280	5-30-2008	Amend	7-1-2008
436-050-0480	7-1-2009	Amend	11-1-2008	437-002-0382	7-1-2008	Amend	6-1-2008
436-110-0240	7-1-2008	Amend	7-1-2008	437-003-0001	5-15-2008	Amend	6-1-2008
436-110-0320	7-1-2008	Amend	7-1-2008	437-003-1000	7-1-2008	Amend	6-1-2008
436-110-0330	7-1-2008	Amend	7-1-2008	437-004-1005	5-15-2008	Amend	6-1-2008
436-160-0004	7-1-2009	Amend	11-1-2008	437-004-1120	5-1-2008	Amend	5-1-2008
436-160-0005	7-1-2009	Amend	11-1-2008	437-004-2230	5-30-2008	Amend	7-1-2008
436-160-0020	7-1-2008	Amend	7-1-2008	437-005-0001	5-15-2008	Amend	6-1-2008
436-160-0020	7-1-2009	Amend	11-1-2008	437-005-0002	5-15-2008	Amend	6-1-2008
436-160-0030	7-1-2009	Amend	11-1-2008	437-005-0003	5-15-2008	Amend	6-1-2008
436-160-0040	7-1-2009	Amend	11-1-2008	437-007-0010	7-1-2008	Amend	4-1-2008
436-160-0060	7-1-2009	Amend	11-1-2008	437-007-0025	7-1-2008	Amend	4-1-2008
436-160-0070	7-1-2008	Amend	7-1-2008	437-007-0685	7-1-2008	Repeal	4-1-2008
436-160-0080	7-1-2009	Amend	11-1-2008	437-007-0775	3-5-2008	Amend	4-1-2008
436-160-0090	7-1-2008	Amend	7-1-2008	437-007-0780	3-5-2008	Amend	4-1-2008
436-160-0300	7-1-2009	Amend	11-1-2008	437-007-1500	7-1-2008	Adopt	4-1-2008
436-160-0310	7-1-2009	Amend	11-1-2008	437-007-1505	7-1-2008	Adopt	4-1-2008
436-160-0320	7-1-2009	Amend	11-1-2008	437-007-1510	7-1-2008	Adopt	4-1-2008
436-160-0330	7-1-2008	Amend	7-1-2008	437-007-1520	7-1-2008	Adopt	4-1-2008
436-160-0330	7-1-2009	Amend	11-1-2008	437-007-1525	7-1-2008	Adopt	4-1-2008
436-160-0340	7-1-2008	Amend	7-1-2008	437-007-1530	7-1-2008	Adopt	4-1-2008
436-160-0340	7-1-2009	Amend	11-1-2008	437-007-1535	7-1-2008	Adopt	4-1-2008
436-160-0350	7-1-2008	Amend	7-1-2008	438-005-0046	1-1-2008	Amend	1-1-2008
436-160-0350	7-1-2009	Amend	11-1-2008	438-005-0050	1-1-2008	Amend	1-1-2008
436-160-0355	7-1-2009	Adopt	11-1-2008	438-005-0055	1-1-2008	Amend	1-1-2008
436-160-0360	7-1-2008	Amend	7-1-2008	438-006-0020	1-1-2008	Amend	1-1-2008
436-160-0360	7-1-2009	Amend	11-1-2008	438-006-0100	1-1-2008	Amend	1-1-2008
436-160-0370	7-1-2009	Adopt	11-1-2008	438-009-0005	1-1-2008	Amend	1-1-2008
436-160-0410	7-1-2008	Amend	7-1-2008	438-009-0010	1-1-2008	Amend	1-1-2008
436-160-0410	7-1-2009	Amend	11-1-2008	438-009-0020	1-1-2008	Amend	1-1-2008
436-160-0430	7-1-2008	Amend	7-1-2008	438-009-0022	1-1-2008	Amend	1-1-2008
437-001-0001	7-14-2008	Amend	8-1-2008	438-009-0025	1-1-2008	Amend	1-1-2008
437-001-0005	7-14-2008	Amend	8-1-2008	438-009-0028	1-1-2008	Amend	1-1-2008
437-001-0015	3-1-2008	Amend	4-1-2008	438-009-0030	1-1-2008	Amend	1-1-2008
437-001-0203	1-1-2009	Amend	11-1-2008	438-009-0035	1-1-2008	Amend	1-1-2008
437-001-0205	1-1-2008	Amend	1-1-2008	438-011-0020	1-1-2008	Amend	1-1-2008
437-001-0215	1-1-2008	Amend	1-1-2008	438-012-0035	1-1-2008	Amend	1-1-2008
437-001-0220	1-1-2008	Amend	1-1-2008	438-015-0005	1-1-2008	Amend	1-1-2008
437-001-0240	1-1-2008	Amend	1-1-2008	438-015-0019	1-1-2008	Adopt	1-1-2008
437-001-0255	1-1-2008	Amend	1-1-2008	438-015-0022	1-1-2008	Adopt	1-1-2008
437-001-0295	12-3-2007	Amend	1-1-2008	438-015-0080	1-1-2008	Amend	1-1-2008
437-001-0700	1-1-2008	Amend	2-1-2008	438-019-0030	1-1-2008	Amend	1-1-2008
437-001-0700	7-14-2008	Amend	8-1-2008	440-007-0200	9-2-2008	Adopt	9-1-2008
437-001-0706	1-1-2008	Adopt	2-1-2008	440-007-0210	9-2-2008	Adopt	9-1-2008
437-001-0706	7-14-2008	Amend	8-1-2008	440-007-0230	9-2-2008	Adopt	9-1-2008
437-001-0740	1-1-2008	Amend	2-1-2008	440-007-0240	9-2-2008	Adopt	9-1-2008
437-001-0765	1-1-2009	Amend	11-1-2008	440-007-0250	9-2-2008	Adopt	9-1-2008
437-002-0005	5-30-2008	Amend	7-1-2008	440-007-0260	9-2-2008	Adopt	9-1-2008

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440-007-0272	9-2-2008	Adopt	9-1-2008	441-930-0270	8-28-2008	Amend	10-1-2008
440-007-0275	9-2-2008	Adopt	9-1-2008	442-005-0250	5-19-2008	Amend(T)	7-1-2008
440-007-0280	9-2-2008	Adopt	9-1-2008	442-005-0270	3-31-2008	Amend(T)	5-1-2008
440-007-0285	9-2-2008	Adopt	9-1-2008	443-002-0010	1-2-2008	Amend	2-1-2008
440-007-0290	9-2-2008	Adopt	9-1-2008	443-002-0010	7-1-2008	Amend(T)	8-1-2008
440-007-0300	9-2-2008	Adopt	9-1-2008	443-002-0030	1-2-2008	Amend(T)	2-1-2008
440-045-0020	1-1-2009	Amend	11-1-2008	443-002-0030	4-15-2008	Amend	5-1-2008
440-045-0025	1-1-2009	Amend	11-1-2008	443-002-0030	6-10-2008	Amend(T)	7-1-2008
441-325-0010	6-26-2008	Amend	8-1-2008	443-002-0060	1-2-2008	Amend	2-1-2008
441-325-0020	6-26-2008	Amend	8-1-2008	443-002-0060	7-1-2008	Amend(T)	8-1-2008
441-325-0030	6-26-2008	Amend	8-1-2008	443-002-0070	1-2-2008	Amend	2-1-2008
441-325-0040	6-26-2008	Amend	8-1-2008	443-002-0095	1-2-2008	Repeal	2-1-2008
441-325-0050	6-26-2008	Amend	8-1-2008	443-002-0100	1-2-2008	Amend	2-1-2008
441-500-0020	1-28-2008	Amend	3-1-2008	443-002-0100	9-29-2008	Amend(T)	11-1-2008
441-500-0030	1-28-2008	Amend	3-1-2008	459-001-0005	4-4-2008	Amend	5-1-2008
441-505-3045	4-18-2008	Adopt(T)	6-1-2008	459-001-0030	4-2-2008	Amend	5-1-2008
441-505-3046	10-16-2008	Amend	11-1-2008	459-001-0032	4-2-2008	Adopt	5-1-2008
441-710-0500	1-28-2008	Amend	3-1-2008	459-001-0035	4-2-2008	Amend	5-1-2008
441-710-0540	10-16-2008	Amend	11-1-2008	459-001-0040	4-2-2008	Amend	5-1-2008
441-720-0385	4-18-2008	Adopt(T)	6-1-2008	459-005-0310	7-31-2008	Amend	9-1-2008
441-730-0000	12-27-2007	Amend	1-1-2008	459-005-0591	5-21-2008	Amend(T)	7-1-2008
441-730-0010	12-27-2007	Amend	1-1-2008	459-005-0591	7-31-2008	Amend	9-1-2008
441-730-0015	12-27-2007	Amend	1-1-2008	459-005-0595	5-21-2008	Amend(T)	7-1-2008
441-730-0030	1-28-2008	Amend	3-1-2008	459-005-0595	7-31-2008	Amend	9-1-2008
441-730-0245	4-18-2008	Adopt(T)	6-1-2008	459-007-0110	11-23-2007	Amend	1-1-2008
441-730-0246	10-16-2008	Amend	11-1-2008	459-007-0160	11-23-2007	Adopt	1-1-2008
441-730-0270	12-27-2007	Amend	1-1-2008	459-007-0290	11-23-2007	Amend	1-1-2008
441-730-0275	12-27-2007	Amend	1-1-2008	459-007-0530	11-23-2007	Amend	1-1-2008
441-730-0310	12-27-2007	Amend	1-1-2008	459-009-0084	11-23-2007	Amend	1-1-2008
441-740-0010	8-28-2008	Amend	10-1-2008	459-009-0085	11-23-2007	Amend	1-1-2008
441-745-0340	8-28-2008	Amend	10-1-2008	459-009-0090	11-23-2007	Amend	1-1-2008
441-755-0000	11-30-2007	Adopt	1-1-2008	459-009-0130	4-2-2008	Amend	5-1-2008
441-755-0010	11-30-2007	Adopt	1-1-2008	459-010-0003	11-23-2007	Amend	1-1-2008
441-755-0100	11-30-2007	Adopt	1-1-2008	459-010-0014	11-23-2007	Amend	1-1-2008
441-755-0110	11-30-2007	Adopt	1-1-2008	459-010-0014	4-2-2008	Amend(T)	5-1-2008
441-755-0120	11-30-2007	Adopt	1-1-2008	459-010-0014	5-21-2008	Amend	7-1-2008
441-755-0130	11-30-2007	Adopt	1-1-2008	459-010-0035	11-23-2007	Amend	1-1-2008
441-755-0140	11-30-2007	Adopt	1-1-2008	459-010-0042	4-2-2008	Amend(T)	5-1-2008
441-755-0150	11-30-2007	Adopt	1-1-2008	459-010-0042	5-21-2008	Amend	7-1-2008
441-755-0160	11-30-2007	Adopt	1-1-2008	459-010-0055	11-23-2007	Amend	1-1-2008
441-755-0170	11-30-2007	Adopt	1-1-2008	459-011-0050	11-23-2007	Amend	1-1-2008
441-755-0200	11-30-2007	Adopt	1-1-2008	459-013-0110	11-23-2007	Amend	1-1-2008
441-755-0210	11-30-2007	Adopt	1-1-2008	459-015-0055	4-2-2008	Amend	5-1-2008
441-755-0220	11-30-2007	Adopt	1-1-2008	459-017-0060	11-23-2007	Amend	1-1-2008
441-755-0300	11-30-2007	Adopt	1-1-2008	459-045-0030	11-23-2007	Amend	1-1-2008
441-755-0310	11-30-2007	Adopt	1-1-2008	459-050-0040	4-2-2008	Amend	5-1-2008
441-810-0110	8-28-2008	Amend	10-1-2008	459-050-0080	11-23-2007	Amend	1-1-2008
441-830-0020	8-28-2008	Amend	10-1-2008	459-050-0090	5-21-2008	Amend(T)	7-1-2008
441-850-0040	4-18-2008	Adopt(T)	6-1-2008	459-050-0090	7-31-2008	Amend	9-1-2008
441-850-0042	10-16-2008	Amend	11-1-2008	459-050-0220	11-23-2007	Amend	1-1-2008
441-860-0010	5-7-2008	Amend	6-1-2008	459-060-0000	7-31-2008	Repeal	9-1-2008
441-860-0110	8-28-2008	Amend	10-1-2008	459-060-0001	7-31-2008	Amend	9-1-2008
441-865-0022	5-7-2008	Adopt(T)	6-1-2008	459-060-0010	7-31-2008	Amend	9-1-2008
441-865-0022	6-26-2008	Suspend	8-1-2008	459-070-0001	11-23-2007	Amend	1-1-2008
441-865-0024	6-26-2008	Adopt(T)	8-1-2008	459-070-0050	7-31-2008	Amend	9-1-2008
441-870-0030	5-7-2008	Amend	6-1-2008	459-075-0010	11-23-2007	Amend	1-1-2008
441-870-0080	5-7-2008	Adopt	6-1-2008	459-075-0010	7-31-2008	Amend	9-1-2008

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459-075-0150	11-23-2007	Amend	1-1-2008	461-120-0125	2-22-2008	Amend(T)	4-1-2008
459-080-0020	11-23-2007	Adopt	1-1-2008	461-120-0125	7-1-2008	Amend	8-1-2008
459-080-0250	11-23-2007	Amend	1-1-2008	461-120-0125(T)	7-1-2008	Repeal	8-1-2008
461-001-0000	1-1-2008	Amend	2-1-2008	461-120-0130	10-1-2008	Amend	11-1-2008
461-001-0000	1-1-2008	Amend(T)	2-1-2008	461-120-0310	12-1-2007	Amend(T)	1-1-2008
461-001-0000	3-1-2008	Amend	4-1-2008	461-120-0310	3-1-2008	Amend	4-1-2008
461-001-0000	4-1-2008	Amend	5-1-2008	461-120-0310(T)	12-1-2007	Suspend	1-1-2008
461-001-0000	7-1-2008	Amend	8-1-2008	461-120-0310(T)	3-1-2008	Repeal	4-1-2008
461-001-0000	10-1-2008	Amend	11-1-2008	461-120-0330	7-1-2008	Amend	8-1-2008
461-001-0000(T)	1-1-2008	Repeal	2-1-2008	461-120-0340	3-1-2008	Amend	4-1-2008
461-001-0000(T)	3-1-2008	Repeal	4-1-2008	461-120-0340(T)	3-1-2008	Repeal	4-1-2008
461-001-0025	3-1-2008	Amend	4-1-2008	461-120-0345	3-1-2008	Amend	4-1-2008
461-001-0025(T)	3-1-2008	Repeal	4-1-2008	461-120-0345(T)	3-1-2008	Repeal	4-1-2008
461-001-0035	1-1-2008	Amend	2-1-2008	461-120-0510	7-1-2008	Amend	8-1-2008
461-001-0035	10-1-2008	Amend	11-1-2008	461-120-0510	10-1-2008	Amend	11-1-2008
461-006-0452	4-1-2008	Am. & Ren.	5-1-2008	461-125-0130	3-1-2008	Amend	4-1-2008
461-025-0310	3-1-2008	Amend	4-1-2008	461-125-0130(T)	3-1-2008	Repeal	4-1-2008
461-025-0310	4-1-2008	Amend	5-1-2008	461-125-0260	3-1-2008	Adopt	4-1-2008
461-025-0310	7-1-2008	Amend	8-1-2008	461-125-0260(T)	3-1-2008	Repeal	4-1-2008
461-025-0310(T)	3-1-2008	Repeal	4-1-2008	461-125-0310	4-1-2008	Amend	5-1-2008
461-025-0311	7-1-2008	Amend	8-1-2008	461-125-0810	3-1-2008	Amend	4-1-2008
461-025-0350	1-1-2008	Amend(T)	2-1-2008	461-125-0810(T)	3-1-2008	Repeal	4-1-2008
461-025-0350	4-1-2008	Amend	5-1-2008	461-130-0305	3-1-2008	Amend	4-1-2008
461-025-0350(T)	4-1-2008	Repeal	5-1-2008	461-130-0305(T)	3-1-2008	Repeal	4-1-2008
461-025-0375	7-1-2008	Amend	8-1-2008	461-130-0310	3-1-2008	Amend	4-1-2008
461-101-0010	3-1-2008	Amend	4-1-2008	461-130-0310	10-1-2008	Amend	11-1-2008
461-101-0010	10-1-2008	Amend	11-1-2008	461-130-0310(T)	3-1-2008	Repeal	4-1-2008
461-101-0010(T)	3-1-2008	Repeal	4-1-2008	461-130-0315	3-1-2008	Amend	4-1-2008
461-105-0010	3-1-2008	Amend	4-1-2008	461-130-0315(T)	3-1-2008	Repeal	4-1-2008
461-105-0010(T)	3-1-2008	Repeal	4-1-2008	461-130-0323	3-1-2008	Adopt	4-1-2008
461-110-0370	10-1-2008	Amend	11-1-2008	461-130-0323(T)	3-1-2008	Repeal	4-1-2008
461-110-0410	7-1-2008	Amend	8-1-2008	461-130-0325	3-1-2008	Amend	4-1-2008
461-110-0530	7-1-2008	Amend	8-1-2008	461-130-0325	7-1-2008	Amend	8-1-2008
461-110-0630	3-1-2008	Amend	4-1-2008	461-130-0325(T)	3-1-2008	Repeal	4-1-2008
461-110-0630	7-1-2008	Amend	8-1-2008	461-130-0327	3-1-2008	Amend	4-1-2008
461-110-0630(T)	3-1-2008	Repeal	4-1-2008	461-130-0327(T)	3-1-2008	Repeal	4-1-2008
461-115-0015	10-1-2008	Repeal	11-1-2008	461-130-0330	3-1-2008	Amend	4-1-2008
461-115-0030	3-1-2008	Amend	4-1-2008	461-130-0330(T)	3-1-2008	Repeal	4-1-2008
461-115-0030	4-17-2008	Amend(T)	6-1-2008	461-130-0335	3-1-2008	Amend	4-1-2008
461-115-0030	7-1-2008	Amend	8-1-2008	461-130-0335(T)	3-1-2008	Repeal	4-1-2008
461-115-0030	10-1-2008	Amend	11-1-2008	461-135-0010	3-1-2008	Amend	4-1-2008
461-115-0030(T)	3-1-2008	Repeal	4-1-2008	461-135-0010	7-1-2008	Amend	8-1-2008
461-115-0050	1-28-2008	Amend(T)	3-1-2008	461-135-0010	10-1-2008	Amend	11-1-2008
461-115-0050	7-1-2008	Amend	8-1-2008	461-135-0010(T)	3-1-2008	Repeal	4-1-2008
461-115-0190	3-1-2008	Amend	4-1-2008	461-135-0070	3-1-2008	Amend	4-1-2008
461-115-0190(T)	3-1-2008	Repeal	4-1-2008	461-135-0070(T)	3-1-2008	Repeal	4-1-2008
461-115-0430	3-1-2008	Amend	4-1-2008	461-135-0075	3-1-2008	Amend	4-1-2008
461-115-0430(T)	3-1-2008	Repeal	4-1-2008	461-135-0075	10-1-2008	Amend(T)	11-1-2008
461-115-0610	4-1-2008	Amend	5-1-2008	461-135-0075(T)	3-1-2008	Repeal	4-1-2008
461-115-0651	7-1-2008	Amend	8-1-2008	461-135-0082	1-30-2008	Amend(T)	3-1-2008
461-115-0700	1-1-2008	Amend	2-1-2008	461-135-0082	2-22-2008	Amend(T)	4-1-2008
461-115-0705	4-1-2008	Amend	5-1-2008	461-135-0082	7-1-2008	Amend	8-1-2008
461-115-0715	3-1-2008	Adopt	4-1-2008	461-135-0082	10-1-2008	Amend	11-1-2008
461-115-0715(T)	3-1-2008	Repeal	4-1-2008	461-135-0082(T)	7-1-2008	Repeal	8-1-2008
461-120-0120	1-30-2008	Amend(T)	3-1-2008	461-135-0085	3-1-2008	Amend	4-1-2008
461-120-0120	7-1-2008	Amend	8-1-2008	461-135-0085(T)	3-1-2008	Repeal	4-1-2008
461-120-0120(T)	7-1-2008	Repeal	8-1-2008	461-135-0089	3-1-2008	Amend	4-1-2008

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461-135-0200	3-1-2008	Amend	4-1-2008	461-140-0040	7-1-2008	Amend	8-1-2008
461-135-0200(T)	3-1-2008	Repeal	4-1-2008	461-140-0220	1-1-2008	Amend	2-1-2008
461-135-0400	7-1-2008	Amend	8-1-2008	461-140-0220	7-1-2008	Amend	8-1-2008
461-135-0400	10-1-2008	Amend	11-1-2008	461-140-0242	7-1-2008	Amend	8-1-2008
461-135-0401	10-1-2008	Repeal	11-1-2008	461-140-0296	10-1-2008	Amend	11-1-2008
461-135-0475	3-1-2008	Amend	4-1-2008	461-145-0020	7-1-2008	Amend	8-1-2008
461-135-0475(T)	3-1-2008	Repeal	4-1-2008	461-145-0022	7-1-2008	Amend	8-1-2008
461-135-0493	12-17-2007	Amend(T)	2-1-2008	461-145-0030	1-1-2008	Amend	2-1-2008
461-135-0493	10-1-2008	Amend	11-1-2008	461-145-0080	3-1-2008	Amend	4-1-2008
461-135-0494	10-1-2008	Amend	11-1-2008	461-145-0080	3-21-2008	Amend(T)	5-1-2008
461-135-0505	3-1-2008	Amend	4-1-2008	461-145-0080	7-1-2008	Amend	8-1-2008
461-135-0505(T)	3-1-2008	Repeal	4-1-2008	461-145-0080	10-1-2008	Amend	11-1-2008
461-135-0506	3-1-2008	Amend	4-1-2008	461-145-0080(T)	3-1-2008	Repeal	4-1-2008
461-135-0506	10-1-2008	Amend	11-1-2008	461-145-0080(T)	7-1-2008	Repeal	8-1-2008
461-135-0506(T)	3-1-2008	Repeal	4-1-2008	461-145-0090	7-1-2008	Amend	8-1-2008
461-135-0507	7-1-2008	Adopt(T)	8-1-2008	461-145-0108	1-1-2008	Amend	2-1-2008
461-135-0570	7-1-2008	Amend	8-1-2008	461-145-0120	4-1-2008	Amend	5-1-2008
461-135-0725	1-1-2008	Amend	2-1-2008	461-145-0130	10-1-2008	Amend	11-1-2008
461-135-0730	7-1-2008	Amend(T)	8-1-2008	461-145-0150	10-1-2008	Amend	11-1-2008
461-135-0730	8-8-2008	Amend(T)	9-1-2008	461-145-0180	1-1-2008	Repeal	2-1-2008
461-135-0730(T)	8-8-2008	Suspend	9-1-2008	461-145-0220	1-1-2008	Amend	2-1-2008
461-135-0750	4-7-2008	Amend(T)	5-1-2008	461-145-0261	7-1-2008	Adopt	8-1-2008
461-135-0750	7-1-2008	Amend	8-1-2008	461-145-0265	10-1-2008	Am. & Ren.	11-1-2008
461-135-0750(T)	7-1-2008	Repeal	8-1-2008	461-145-0310	7-1-2008	Amend	8-1-2008
461-135-0780	1-1-2008	Amend	2-1-2008	461-145-0330	10-1-2008	Amend	11-1-2008
461-135-0780	7-1-2008	Amend	8-1-2008	461-145-0370	4-1-2008	Amend	5-1-2008
461-135-0811	7-1-2008	Repeal	8-1-2008	461-145-0380	10-1-2008	Amend	11-1-2008
461-135-0832	10-1-2008	Amend	8-1-2008	461-145-0410	3-1-2008	Amend	4-1-2008
461-135-0835	1-1-2008	Amend	2-1-2008	461-145-0410	10-1-2008	Amend	11-1-2008
461-135-0835	10-1-2008	Amend	8-1-2008	461-145-0410(T)	3-1-2008	Repeal	4-1-2008
461-135-0875	7-1-2008	Amend	8-1-2008	461-145-0450(T)	4-1-2008	Repeal	5-1-2008
461-135-0900	1-30-2008	Amend(T)	3-1-2008	461-145-0470	4-1-2008	Amend	5-1-2008
461-135-0900	2-22-2008	Amend(T)	4-1-2008	461-145-0470	10-1-2008	Amend	11-1-2008
461-135-0900	7-1-2008	Amend	8-1-2008	461-145-0490	4-1-2008	Amend	5-1-2008
461-135-0900(T)	7-1-2008	Repeal	8-1-2008	461-145-0490	7-1-2008	Amend	8-1-2008
461-135-0910	4-1-2008	Amend	5-1-2008	461-145-0490	10-1-2008	Amend	11-1-2008
461-135-0930	10-1-2008	Amend	11-1-2008	461-145-0500	4-1-2008	Amend	5-1-2008
461-135-0990	10-1-2008	Amend	11-1-2008	461-145-0505	4-1-2008	Amend	5-1-2008
461-135-1100	6-1-2008	Amend(T)	7-1-2008	461-145-0510	7-1-2008	Amend	8-1-2008
461-135-1100	7-1-2008	Amend	8-1-2008	461-145-0520	4-1-2008	Amend	5-1-2008
461-135-1102	1-28-2008	Amend(T)	3-1-2008	461-145-0530	4-1-2008	Amend	5-1-2008
461-135-1102	6-1-2008	Amend(T)	7-1-2008	461-145-0530	4-1-2008	Amend(T)	5-1-2008
461-135-1102	7-1-2008	Amend	8-1-2008	461-145-0550	4-1-2008	Amend	5-1-2008
461-135-1102(T)	6-1-2008	Suspend	7-1-2008	461-145-0560	7-1-2008	Amend	8-1-2008
461-135-1110	7-1-2008	Amend	8-1-2008	461-145-0580	1-1-2008	Amend	2-1-2008
461-135-1125	1-28-2008	Adopt(T)	3-1-2008	461-145-0582	7-1-2008	Amend	8-1-2008
461-135-1125	4-17-2008	Amend(T)	6-1-2008	461-145-0585	4-1-2008	Amend	5-1-2008
461-135-1125	7-1-2008	Adopt	8-1-2008	461-145-0600	10-1-2008	Amend	11-1-2008
461-135-1125(T)	4-17-2008	Suspend	6-1-2008	461-145-0910	4-1-2008	Amend	5-1-2008
461-135-1175	4-1-2008	Amend	5-1-2008	461-150-0047	1-1-2008	Amend	2-1-2008
461-135-1175	7-1-2008	Amend	8-1-2008	461-155-0020	10-1-2008	Amend	11-1-2008
461-135-1185(T)	3-1-2008	Repeal	4-1-2008	461-155-0150	3-1-2008	Amend	4-1-2008
461-135-1195	3-1-2008	Adopt	4-1-2008	461-155-0150	10-1-2008	Amend	11-1-2008
461-135-1235	10-1-2008	Amend	11-1-2008	461-155-0150(T)	3-1-2008	Repeal	4-1-2008
461-135-1250	3-1-2008	Adopt	4-1-2008	461-155-0180	1-24-2008	Amend(T)	3-1-2008
461-135-1250(T)	3-1-2008	Repeal	4-1-2008	461-155-0180	7-1-2008	Amend	8-1-2008
461-140-0010	7-1-2008	Amend	8-1-2008	461-155-0190	10-1-2008	Amend	11-1-2008

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461-155-0235	7-1-2008	Amend	8-1-2008	461-160-0800	3-1-2008	Amend(T)	4-1-2008
461-155-0250	1-1-2008	Amend	2-1-2008	461-160-0800	7-1-2008	Amend	8-1-2008
461-155-0250	3-1-2008	Amend(T)	4-1-2008	461-160-0800(T)	7-1-2008	Repeal	8-1-2008
461-155-0250	7-1-2008	Amend	8-1-2008	461-160-0810	3-1-2008	Suspend	4-1-2008
461-155-0250	10-1-2008	Amend	11-1-2008	461-160-0810	7-1-2008	Repeal	8-1-2008
461-155-0250(T)	7-1-2008	Repeal	8-1-2008	461-160-0820	3-1-2008	Suspend	4-1-2008
461-155-0270	1-1-2008	Amend	2-1-2008	461-160-0820	7-1-2008	Repeal	8-1-2008
461-155-0270	7-1-2008	Amend	8-1-2008	461-160-0850	3-1-2008	Suspend	4-1-2008
461-155-0290	3-1-2008	Amend(T)	4-1-2008	461-160-0850	7-1-2008	Repeal	8-1-2008
461-155-0290	4-1-2008	Amend	5-1-2008	461-160-0855	1-1-2008	Adopt	2-1-2008
461-155-0290(T)	4-1-2008	Repeal	5-1-2008	461-165-0030	3-1-2008	Amend	4-1-2008
461-155-0291	3-1-2008	Amend(T)	4-1-2008	461-165-0030(T)	3-1-2008	Repeal	4-1-2008
461-155-0291	4-1-2008	Amend	5-1-2008	461-165-0060	10-1-2008	Amend	11-1-2008
461-155-0291(T)	4-1-2008	Repeal	5-1-2008	461-165-0190	7-1-2008	Amend	8-1-2008
461-155-0295	3-1-2008	Amend(T)	4-1-2008	461-170-0015	10-1-2008	Amend	11-1-2008
461-155-0295	4-1-2008	Amend	5-1-2008	461-170-0020	3-1-2008	Amend	4-1-2008
461-155-0295(T)	4-1-2008	Repeal	5-1-2008	461-170-0020	10-1-2008	Amend	11-1-2008
461-155-0300	1-1-2008	Amend	2-1-2008	461-170-0020(T)	3-1-2008	Repeal	4-1-2008
461-155-0320	1-1-2008	Amend(T)	2-1-2008	461-170-0030	3-1-2008	Amend	4-1-2008
461-155-0320	3-1-2008	Adopt	4-1-2008	461-170-0030(T)	3-1-2008	Repeal	4-1-2008
461-155-0320(T)	3-1-2008	Repeal	4-1-2008	461-170-0100	10-1-2008	Amend	11-1-2008
461-155-0360	10-1-2008	Amend	11-1-2008	461-170-0101	10-1-2008	Amend	11-1-2008
461-155-0500	7-1-2008	Amend	8-1-2008	461-170-0130	1-1-2008	Amend	2-1-2008
461-155-0500	8-1-2008	Amend(T)	9-1-2008	461-170-0150	10-1-2008	Amend	11-1-2008
461-155-0500	10-1-2008	Amend(T)	11-1-2008	461-175-0050	4-1-2008	Amend	5-1-2008
461-155-0500(T)	10-1-2008	Suspend	11-1-2008	461-175-0200	1-1-2008	Amend(T)	2-1-2008
461-155-0526	8-1-2008	Amend(T)	9-1-2008	461-175-0200	4-1-2008	Amend	5-1-2008
461-155-0600	8-1-2008	Amend(T)	9-1-2008	461-175-0200	4-7-2008	Amend(T)	5-1-2008
461-155-0610	8-1-2008	Amend(T)	9-1-2008	461-175-0200	7-1-2008	Amend	8-1-2008
461-155-0650	7-1-2008	Repeal	8-1-2008	461-175-0200(T)	4-1-2008	Repeal	5-1-2008
461-155-0660	10-1-2008	Amend	11-1-2008	461-175-0200(T)	7-1-2008	Repeal	8-1-2008
461-155-0670	3-1-2008	Amend	4-1-2008	461-175-0270	1-1-2008	Amend	2-1-2008
461-155-0670(T)	3-1-2008	Repeal	4-1-2008	461-175-0340	1-1-2008	Amend(T)	2-1-2008
461-155-0690	7-1-2008	Repeal	8-1-2008	461-175-0340	4-1-2008	Amend	5-1-2008
461-155-0700	8-1-2008	Adopt(T)	9-1-2008	461-175-0340	10-1-2008	Amend	11-1-2008
461-155-0710	10-1-2008	Adopt(T)	11-1-2008	461-175-0340(T)	4-1-2008	Repeal	5-1-2008
461-160-0010	7-1-2008	Amend	8-1-2008	461-180-0010	3-1-2008	Amend	4-1-2008
461-160-0030	4-1-2008	Amend	5-1-2008	461-180-0010(T)	3-1-2008	Repeal	4-1-2008
461-160-0040	1-1-2008	Amend	2-1-2008	461-180-0020	3-1-2008	Amend	4-1-2008
461-160-0040	10-1-2008	Amend	11-1-2008	461-180-0020(T)	3-1-2008	Repeal	4-1-2008
461-160-0055	1-1-2008	Amend	2-1-2008	461-180-0040	7-1-2008	Amend	8-1-2008
461-160-0200	10-1-2008	Amend	11-1-2008	461-180-0070	3-1-2008	Amend	4-1-2008
461-160-0410	1-1-2008	Amend	2-1-2008	461-180-0070	10-1-2008	Amend	11-1-2008
461-160-0415	1-1-2008	Amend	2-1-2008	461-180-0070(T)	3-1-2008	Repeal	4-1-2008
461-160-0420	10-1-2008	Amend	11-1-2008	461-180-0081	3-1-2008	Amend	4-1-2008
461-160-0430	3-1-2008	Amend	4-1-2008	461-180-0081(T)	3-1-2008	Repeal	4-1-2008
461-160-0430	10-1-2008	Amend	11-1-2008	461-180-0085	1-1-2008	Amend	2-1-2008
461-160-0430(T)	3-1-2008	Repeal	4-1-2008	461-190-0051	3-1-2008	Amend	4-1-2008
461-160-0550	1-1-2008	Amend	2-1-2008	461-190-0151(T)	3-1-2008	Repeal	4-1-2008
461-160-0550	7-1-2008	Amend	8-1-2008	461-190-0163	3-1-2008	Amend	4-1-2008
461-160-0550	10-1-2008	Amend	11-1-2008	461-190-0163(T)	3-1-2008	Repeal	4-1-2008
461-160-0551	7-1-2008	Adopt	8-1-2008	461-190-0171	3-1-2008	Amend	4-1-2008
461-160-0551	10-1-2008	Amend	11-1-2008	461-190-0171(T)	3-1-2008	Repeal	4-1-2008
461-160-0552	10-1-2008	Adopt	11-1-2008	461-190-0195	10-1-2008	Repeal	11-1-2008
461-160-0580	1-1-2008	Amend	2-1-2008	461-190-0199	9-5-2008	Adopt(T)	10-1-2008
461-160-0610	10-1-2008	Amend	11-1-2008	461-190-0199	10-1-2008	Adopt	11-1-2008
461-160-0620	1-1-2008	Amend	2-1-2008	461-190-0199(T)	10-1-2008	Repeal	11-1-2008

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461-190-0201	3-1-2008	Repeal	4-1-2008	462-140-0140	9-30-2008	Amend	11-1-2008
461-190-0211	3-1-2008	Amend	4-1-2008	462-140-0150	9-30-2008	Amend	11-1-2008
461-190-0211	10-1-2008	Amend	11-1-2008	462-140-0170	9-30-2008	Amend	11-1-2008
461-190-0211(T)	3-1-2008	Repeal	4-1-2008	462-140-0180	9-30-2008	Amend	11-1-2008
461-190-0231	3-1-2008	Amend	4-1-2008	462-140-0190	9-30-2008	Amend	11-1-2008
461-190-0231	10-1-2008	Amend	11-1-2008	462-140-0230	9-30-2008	Amend	11-1-2008
461-190-0231(T)	3-1-2008	Repeal	4-1-2008	462-140-0290	9-30-2008	Amend	11-1-2008
461-190-0241	3-1-2008	Amend	4-1-2008	462-140-0310	9-30-2008	Amend	11-1-2008
461-190-0241(T)	3-1-2008	Repeal	4-1-2008	462-140-0320	9-30-2008	Amend	11-1-2008
461-190-0426	4-1-2008	Amend	5-1-2008	462-140-0340	9-30-2008	Amend	11-1-2008
461-195-0501	1-1-2008	Amend	2-1-2008	462-140-0360	9-30-2008	Amend	11-1-2008
461-195-0501	1-1-2008	Amend(T)	2-1-2008	462-140-0370	9-30-2008	Amend	11-1-2008
461-195-0501	3-1-2008	Amend	4-1-2008	462-150-0010	9-30-2008	Amend	11-1-2008
461-195-0501(T)	1-1-2008	Repeal	2-1-2008	462-150-0030	9-30-2008	Amend	11-1-2008
461-195-0501(T)	3-1-2008	Repeal	4-1-2008	462-150-0040	9-30-2008	Amend	11-1-2008
461-195-0511	1-1-2008	Amend	2-1-2008	462-150-0050	9-30-2008	Amend	11-1-2008
461-195-0521	1-1-2008	Amend	2-1-2008	462-150-0060	9-30-2008	Amend	11-1-2008
461-195-0521	4-1-2008	Amend	5-1-2008	462-150-0070	9-30-2008	Amend	11-1-2008
461-195-0551	1-1-2008	Amend	2-1-2008	462-150-0080	9-30-2008	Amend	11-1-2008
461-195-0551	1-1-2008	Amend(T)	2-1-2008	462-150-0090	9-30-2008	Amend	11-1-2008
461-195-0551	3-1-2008	Amend	4-1-2008	462-150-0100	9-30-2008	Amend	11-1-2008
461-195-0551(T)	1-1-2008	Repeal	2-1-2008	462-150-0110	9-30-2008	Amend	11-1-2008
461-195-0551(T)	3-1-2008	Repeal	4-1-2008	462-160-0110	11-28-2007	Amend(T)	1-1-2008
461-195-0561	3-1-2008	Amend	4-1-2008	462-160-0110	4-7-2008	Amend	5-1-2008
461-195-0561(T)	3-1-2008	Repeal	4-1-2008	462-160-0110	9-30-2008	Amend	11-1-2008
461-195-0601	3-1-2008	Amend	4-1-2008	462-160-0120	11-28-2007	Amend(T)	1-1-2008
461-195-0601(T)	3-1-2008	Repeal	4-1-2008	462-160-0120	4-7-2008	Amend	5-1-2008
462-001-0000	9-30-2008	Amend	11-1-2008	462-160-0120	9-30-2008	Amend	11-1-2008
462-001-0005	9-30-2008	Amend	11-1-2008	462-160-0130	11-28-2007	Amend(T)	1-1-2008
462-001-0006	9-30-2008	Adopt	11-1-2008	462-160-0130	4-7-2008	Amend	5-1-2008
462-001-0008	9-30-2008	Adopt	11-1-2008	462-160-0130	9-30-2008	Amend	11-1-2008
462-110-0010	9-30-2008	Amend	11-1-2008	462-160-0140	9-30-2008	Amend	11-1-2008
462-110-0020	9-30-2008	Amend	11-1-2008	462-200-0630	12-6-2007	Repeal	1-1-2008
462-120-0040	9-30-2008	Amend	11-1-2008	462-220-0060	9-30-2008	Amend	11-1-2008
462-120-0050	9-30-2008	Amend	11-1-2008	471-010-0020	4-29-2008	Amend	6-1-2008
462-120-0055	9-30-2008	Adopt	11-1-2008	471-010-0050	1-7-2008	Suspend	2-1-2008
462-120-0060	9-30-2008	Amend	11-1-2008	471-010-0050	7-1-2008	Repeal	7-1-2008
462-120-0070	9-30-2008	Amend	11-1-2008	471-010-0051	1-7-2008	Suspend	2-1-2008
462-120-0090	9-30-2008	Amend	11-1-2008	471-010-0051	7-1-2008	Repeal	7-1-2008
462-120-0100	9-30-2008	Amend	11-1-2008	471-010-0052	1-7-2008	Suspend	2-1-2008
462-120-0110	9-30-2008	Amend	11-1-2008	471-010-0052	7-1-2008	Repeal	7-1-2008
462-120-0120	9-30-2008	Amend	11-1-2008	471-010-0054	1-7-2008	Suspend	2-1-2008
462-130-0010	9-30-2008	Amend	11-1-2008	471-010-0054	7-1-2008	Repeal	7-1-2008
462-130-0020	9-30-2008	Amend	11-1-2008	471-010-0055	1-7-2008	Suspend	2-1-2008
462-130-0040	9-30-2008	Amend	11-1-2008	471-010-0055	7-1-2008	Repeal	7-1-2008
462-130-0050	9-30-2008	Amend	11-1-2008	471-010-0057	1-7-2008	Suspend	2-1-2008
462-130-0060	9-30-2008	Amend	11-1-2008	471-010-0057	7-1-2008	Repeal	7-1-2008
462-140-0010	9-30-2008	Amend	11-1-2008	471-010-0080	2-26-2008	Adopt(T)	4-1-2008
462-140-0025	9-30-2008	Adopt	11-1-2008	471-010-0080	7-1-2008	Adopt	7-1-2008
462-140-0030	9-30-2008	Amend	11-1-2008	471-010-0085	2-26-2008	Adopt(T)	4-1-2008
462-140-0040	9-30-2008	Amend	11-1-2008	471-010-0085	7-1-2008	Adopt	7-1-2008
462-140-0060	9-30-2008	Amend	11-1-2008	471-010-0090	2-26-2008	Adopt(T)	4-1-2008
462-140-0070	9-30-2008	Amend	11-1-2008	471-010-0090	7-1-2008	Adopt	7-1-2008
462-140-0100	9-30-2008	Amend	11-1-2008	471-010-0100	2-26-2008	Adopt(T)	4-1-2008
462-140-0110	9-30-2008	Repeal	11-1-2008	471-010-0100	7-1-2008	Adopt	7-1-2008
462-140-0120	9-30-2008	Repeal	11-1-2008	471-010-0105	2-26-2008	Adopt(T)	4-1-2008
462-140-0125	9-30-2008	Adopt	11-1-2008	471-010-0105	7-1-2008	Adopt	7-1-2008

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471-010-0110	7-1-2008	Adopt	7-1-2008	571-040-0450	7-21-2008	Repeal	9-1-2008
471-010-0115	2-26-2008	Adopt(T)	4-1-2008	571-040-0460	2-19-2008	Suspend	4-1-2008
471-010-0115	7-1-2008	Adopt	7-1-2008	571-040-0460	7-21-2008	Repeal	9-1-2008
471-010-0120	2-26-2008	Adopt(T)	4-1-2008	571-050-0011	6-18-2008	Amend(T)	8-1-2008
471-010-0120	7-1-2008	Adopt	7-1-2008	571-050-0011	8-18-2008	Amend	9-1-2008
471-010-0125	2-26-2008	Adopt(T)	4-1-2008	571-060-0005	7-1-2008	Amend	6-1-2008
471-010-0125	7-1-2008	Adopt	7-1-2008	571-060-0005	7-1-2008	Amend	8-1-2008
471-030-0050	12-3-2007	Amend	1-1-2008	573-035-0040	3-14-2008	Amend	4-1-2008
471-030-0052	2-15-2008	Amend(T)	3-1-2008	573-040-0005	4-15-2008	Amend	5-1-2008
471-030-0052	7-1-2008	Amend	7-1-2008	573-050-0045	6-5-2008	Amend	7-1-2008
471-030-0080	9-16-2008	Amend	11-1-2008	573-075-0100	3-14-2008	Amend	4-1-2008
471-030-0215	4-24-2008	Adopt(T)	6-1-2008	573-095-0010	3-14-2008	Amend	4-1-2008
471-030-0215	8-1-2008	Adopt	8-1-2008	574-035-0005	9-3-2008	Amend	10-1-2008
471-041-0060	1-8-2008	Amend	2-1-2008	574-050-0005	2-1-2008	Amend	3-1-2008
543-001-0005	1-17-2008	Amend	3-1-2008	574-050-0005	9-3-2008	Amend	10-1-2008
571-040-0010	2-19-2008	Suspend	4-1-2008	575-031-0022	8-21-2008	Amend	10-1-2008
571-040-0010	7-21-2008	Repeal	9-1-2008	575-055-0005	8-22-2008	Adopt(T)	10-1-2008
571-040-0015	2-19-2008	Suspend	4-1-2008	575-063-0005	10-15-2008	Amend	11-1-2008
571-040-0015	7-21-2008	Repeal	9-1-2008	575-063-0010	10-15-2008	Amend	11-1-2008
571-040-0020	2-19-2008	Suspend	4-1-2008	575-063-0020	10-15-2008	Amend	11-1-2008
571-040-0020	7-21-2008	Repeal	9-1-2008	575-063-0030	10-15-2008	Amend	11-1-2008
571-040-0030	2-19-2008	Suspend	4-1-2008	575-063-0040	10-15-2008	Repeal	11-1-2008
571-040-0030	7-21-2008	Repeal	9-1-2008	575-063-0050	10-15-2008	Repeal	11-1-2008
571-040-0040	2-19-2008	Suspend	4-1-2008	575-063-0060	10-15-2008	Repeal	11-1-2008
571-040-0040	7-21-2008	Repeal	9-1-2008	575-063-0080	10-15-2008	Repeal	11-1-2008
571-040-0050	2-19-2008	Suspend	4-1-2008	575-063-0090	10-15-2008	Repeal	11-1-2008
571-040-0050	7-21-2008	Repeal	9-1-2008	575-095-0005	1-9-2008	Adopt	2-1-2008
571-040-0060	2-19-2008	Suspend	4-1-2008	575-095-0010	1-9-2008	Adopt	2-1-2008
571-040-0060	7-21-2008	Repeal	9-1-2008	575-095-0015	1-9-2008	Adopt	2-1-2008
571-040-0070	2-19-2008	Suspend	4-1-2008	575-095-0020	1-9-2008	Adopt	2-1-2008
571-040-0070	7-21-2008	Repeal	9-1-2008	575-095-0025	1-9-2008	Adopt	2-1-2008
571-040-0080	2-19-2008	Suspend	4-1-2008	575-095-0030	1-9-2008	Adopt	2-1-2008
571-040-0080	7-21-2008	Repeal	9-1-2008	575-095-0035	1-9-2008	Adopt	2-1-2008
571-040-0100	2-19-2008	Suspend	4-1-2008	575-095-0040	1-9-2008	Adopt	2-1-2008
571-040-0100	7-21-2008	Repeal	9-1-2008	575-095-0045	1-9-2008	Adopt	2-1-2008
571-040-0201	2-19-2008	Suspend	4-1-2008	576-004-0000	7-1-2008	Amend	8-1-2008
571-040-0201	7-21-2008	Repeal	9-1-2008	576-004-0005	7-1-2008	Amend	8-1-2008
571-040-0251	2-19-2008	Suspend	4-1-2008	576-004-0015	7-1-2008	Amend	8-1-2008
571-040-0251	7-21-2008	Repeal	9-1-2008	576-004-0020	7-1-2008	Amend	8-1-2008
571-040-0261	2-19-2008	Suspend	4-1-2008	576-008-0200	2-19-2008	Suspend	4-1-2008
571-040-0261	7-21-2008	Repeal	9-1-2008	576-008-0200	7-21-2008	Repeal	9-1-2008
571-040-0380	2-19-2008	Suspend	4-1-2008	576-008-0205	2-19-2008	Suspend	4-1-2008
571-040-0380	7-21-2008	Repeal	9-1-2008	576-008-0205	7-21-2008	Repeal	9-1-2008
571-040-0382	2-19-2008	Suspend	4-1-2008	576-008-0210	2-19-2008	Suspend	4-1-2008
571-040-0382	7-21-2008	Repeal	9-1-2008	576-008-0210	7-21-2008	Repeal	9-1-2008
571-040-0390	2-19-2008	Suspend	4-1-2008	576-008-0215	2-19-2008	Suspend	4-1-2008
571-040-0390	7-21-2008	Repeal	9-1-2008	576-008-0215	7-21-2008	Repeal	9-1-2008
571-040-0400	2-19-2008	Suspend	4-1-2008	576-008-0220	2-19-2008	Suspend	4-1-2008
571-040-0400	7-21-2008	Repeal	9-1-2008	576-008-0220	7-21-2008	Repeal	9-1-2008
571-040-0410	2-19-2008	Suspend	4-1-2008	576-008-0223	2-19-2008	Suspend	4-1-2008
571-040-0410	7-21-2008	Repeal	9-1-2008	576-008-0223	7-21-2008	Repeal	9-1-2008
571-040-0420	2-19-2008	Suspend	4-1-2008	576-008-0225	2-19-2008	Suspend	4-1-2008
571-040-0420	7-21-2008	Repeal	9-1-2008	576-008-0225	7-21-2008	Repeal	9-1-2008
571-040-0430	2-19-2008	Suspend	4-1-2008	576-008-0228	2-19-2008	Suspend	4-1-2008
571-040-0430	7-21-2008	Repeal	9-1-2008	576-008-0228	7-21-2008	Repeal	9-1-2008
571-040-0440	2-19-2008	Suspend	4-1-2008	576-008-0230	2-19-2008	Suspend	4-1-2008
571-040-0440	7-21-2008	Repeal	9-1-2008	576-008-0230	7-21-2008	Repeal	9-1-2008

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576-008-0235	2-19-2008	Suspend	4-1-2008	577-001-0035	4-21-2008	Amend(T)	5-1-2008
576-008-0235	7-21-2008	Repeal	9-1-2008	577-001-0035	9-15-2008	Amend	10-1-2008
576-008-0240	2-19-2008	Suspend	4-1-2008	577-001-0040	4-21-2008	Amend(T)	5-1-2008
576-008-0240	7-21-2008	Repeal	9-1-2008	577-001-0040	9-15-2008	Amend	10-1-2008
576-008-0245	2-19-2008	Suspend	4-1-2008	577-001-0041	4-21-2008	Amend(T)	5-1-2008
576-008-0245	7-21-2008	Repeal	9-1-2008	577-001-0041	9-15-2008	Amend	10-1-2008
576-008-0255	2-19-2008	Suspend	4-1-2008	577-001-0045	4-21-2008	Amend(T)	5-1-2008
576-008-0255	7-21-2008	Repeal	9-1-2008	577-001-0045	9-15-2008	Amend	10-1-2008
576-008-0260	2-19-2008	Suspend	4-1-2008	577-001-0050	4-21-2008	Amend(T)	5-1-2008
576-008-0260	7-21-2008	Repeal	9-1-2008	577-001-0050	9-15-2008	Amend	10-1-2008
576-008-0275	2-19-2008	Suspend	4-1-2008	577-030-0005	5-1-2008	Amend(T)	5-1-2008
576-008-0275	7-21-2008	Repeal	9-1-2008	577-030-0010	5-1-2008	Amend(T)	5-1-2008
576-008-0277	2-19-2008	Suspend	4-1-2008	577-030-0015	5-1-2008	Amend(T)	5-1-2008
576-008-0277	7-21-2008	Repeal	9-1-2008	577-030-0016	5-1-2008	Adopt(T)	5-1-2008
576-008-0280	2-19-2008	Suspend	4-1-2008	577-030-0020	5-1-2008	Amend(T)	5-1-2008
576-008-0280	7-21-2008	Repeal	9-1-2008	577-030-0021	5-1-2008	Adopt(T)	5-1-2008
576-008-0282	2-19-2008	Suspend	4-1-2008	577-030-0025	5-1-2008	Amend(T)	5-1-2008
576-008-0282	7-21-2008	Repeal	9-1-2008	577-030-0030	5-1-2008	Amend(T)	5-1-2008
576-008-0285	2-19-2008	Suspend	4-1-2008	577-030-0035	1-1-2008	Amend(T)	2-1-2008
576-008-0285	7-21-2008	Repeal	9-1-2008	577-030-0040	5-1-2008	Amend(T)	5-1-2008
576-008-0287	2-19-2008	Suspend	4-1-2008	577-030-0045	5-1-2008	Amend(T)	5-1-2008
576-008-0287	7-21-2008	Repeal	9-1-2008	577-030-0050	5-1-2008	Amend(T)	5-1-2008
576-008-0290	2-19-2008	Suspend	4-1-2008	577-030-0060	5-1-2008	Amend(T)	5-1-2008
576-008-0290	7-21-2008	Repeal	9-1-2008	577-030-0065	5-1-2008	Amend(T)	5-1-2008
576-008-0292	2-19-2008	Suspend	4-1-2008	577-030-0070	5-1-2008	Amend(T)	5-1-2008
576-008-0292	7-21-2008	Repeal	9-1-2008	577-030-0075	5-1-2008	Suspend	5-1-2008
576-008-0295	2-19-2008	Suspend	4-1-2008	577-030-0080	5-1-2008	Am. & Ren.(T)	5-1-2008
576-008-0295	7-21-2008	Repeal	9-1-2008	577-030-0080	9-15-2008	Am. & Ren.	10-1-2008
576-010-0000	7-1-2008	Amend	8-1-2008	577-060-0020	7-1-2008	Amend(T)	7-1-2008
576-010-0011	7-1-2008	Adopt	8-1-2008	577-577-030-0035	5-16-2008	Amend	6-1-2008
576-010-0021	7-1-2008	Adopt	8-1-2008	578-041-0030	6-10-2008	Amend	7-1-2008
576-024-0000	7-1-2008	Amend	8-1-2008	578-072-0010	6-10-2008	Amend	7-1-2008
576-060-0010	7-1-2008	Amend	8-1-2008	578-072-0030	6-10-2008	Amend	7-1-2008
576-060-0015	7-1-2008	Amend	8-1-2008	578-072-0050	6-10-2008	Amend	7-1-2008
576-060-0020	7-1-2008	Amend	8-1-2008	578-072-0070	6-10-2008	Amend	7-1-2008
576-060-0025	7-1-2008	Amend	8-1-2008	579-015-0000	8-15-2008	Amend(T)	9-1-2008
576-060-0031	7-1-2008	Adopt	8-1-2008	579-015-0005	8-15-2008	Amend(T)	9-1-2008
576-060-0035	7-1-2008	Amend	8-1-2008	579-020-0006	3-14-2008	Amend	4-1-2008
576-060-0037	7-1-2008	Amend	8-1-2008	579-020-0006	8-15-2008	Amend	9-1-2008
576-060-0038	7-1-2008	Amend	8-1-2008	579-020-0008	4-15-2008	Suspend	5-1-2008
576-060-0039	7-1-2008	Amend	8-1-2008	579-020-0008	10-15-2008	Repeal	11-1-2008
576-060-0040	7-1-2008	Amend	8-1-2008	579-020-0012	4-15-2008	Suspend	5-1-2008
577-001-0001	4-21-2008	Suspend	5-1-2008	579-020-0012	10-15-2008	Repeal	11-1-2008
577-001-0001	9-15-2008	Repeal	10-1-2008	579-020-0017	4-15-2008	Suspend	5-1-2008
577-001-0005	4-21-2008	Amend(T)	5-1-2008	579-020-0017	10-15-2008	Repeal	11-1-2008
577-001-0005	9-15-2008	Amend	10-1-2008	579-030-0005	3-14-2008	Amend	4-1-2008
577-001-0010	4-21-2008	Amend(T)	5-1-2008	579-030-0010	3-14-2008	Amend	4-1-2008
577-001-0010	9-15-2008	Amend	10-1-2008	579-030-0015	3-14-2008	Amend	4-1-2008
577-001-0014	4-21-2008	Suspend	5-1-2008	579-030-0020	3-14-2008	Amend	4-1-2008
577-001-0014	9-15-2008	Repeal	10-1-2008	579-045-0005	9-15-2008	Amend	10-1-2008
577-001-0015	4-21-2008	Suspend	5-1-2008	580-023-0005	2-19-2008	Suspend	4-1-2008
577-001-0015	9-15-2008	Repeal	10-1-2008	580-023-0010	2-19-2008	Suspend	4-1-2008
577-001-0020	4-21-2008	Amend(T)	5-1-2008	580-023-0015	2-19-2008	Suspend	4-1-2008
577-001-0020	9-15-2008	Amend	10-1-2008	580-023-0020	2-19-2008	Suspend	4-1-2008
577-001-0025	4-21-2008	Amend(T)	5-1-2008	580-023-0025	2-19-2008	Suspend	4-1-2008
577-001-0025	9-15-2008	Amend	10-1-2008	580-023-0030	2-19-2008	Suspend	4-1-2008
577-001-0030	4-21-2008	Suspend	5-1-2008	580-023-0035	2-19-2008	Suspend	4-1-2008
577-001-0030	9-15-2008	Repeal	10-1-2008	580-023-0040	2-19-2008	Suspend	4-1-2008

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580-023-0045	2-19-2008	Suspend	4-1-2008	580-040-0295	2-19-2008	Suspend	4-1-2008
580-023-0050	2-19-2008	Suspend	4-1-2008	580-040-0295	7-21-2008	Repeal	9-1-2008
580-023-0055	2-19-2008	Suspend	4-1-2008	580-042-0010	2-19-2008	Amend(T)	4-1-2008
580-023-0060	2-19-2008	Suspend	4-1-2008	580-042-0010	7-21-2008	Amend	9-1-2008
580-023-0065	2-19-2008	Suspend	4-1-2008	580-043-0060	1-14-2008	Amend	2-1-2008
580-023-0105	2-19-2008	Adopt(T)	4-1-2008	580-043-0065	1-14-2008	Amend	2-1-2008
580-023-0110	2-19-2008	Adopt(T)	4-1-2008	580-043-0070	1-14-2008	Amend	2-1-2008
580-023-0115	2-19-2008	Adopt(T)	4-1-2008	580-043-0075	1-14-2008	Amend	2-1-2008
580-023-0120	2-19-2008	Adopt(T)	4-1-2008	580-043-0085	1-14-2008	Amend	2-1-2008
580-023-0125	2-19-2008	Adopt(T)	4-1-2008	580-043-0090	1-14-2008	Amend	2-1-2008
580-023-0130	2-19-2008	Adopt(T)	4-1-2008	580-043-0095	1-14-2008	Amend	2-1-2008
580-023-0135	2-19-2008	Adopt(T)	4-1-2008	580-043-0100	1-14-2008	Adopt	2-1-2008
580-023-0140	2-19-2008	Adopt(T)	4-1-2008	580-050-0001	2-19-2008	Suspend	4-1-2008
580-023-0145	2-19-2008	Adopt(T)	4-1-2008	580-050-0001	7-21-2008	Repeal	9-1-2008
580-023-0150	2-19-2008	Adopt(T)	4-1-2008	580-050-0005	2-19-2008	Suspend	4-1-2008
580-040-0035	1-14-2008	Amend	2-1-2008	580-050-0005	7-21-2008	Repeal	9-1-2008
580-040-0040	3-20-2008	Amend(T)	5-1-2008	580-050-0010	2-19-2008	Suspend	4-1-2008
580-040-0040	6-17-2008	Amend	8-1-2008	580-050-0010	7-21-2008	Repeal	9-1-2008
580-040-0100	2-19-2008	Suspend	4-1-2008	580-050-0015	2-19-2008	Suspend	4-1-2008
580-040-0100	7-21-2008	Repeal	9-1-2008	580-050-0015	7-21-2008	Repeal	9-1-2008
580-040-0200	2-19-2008	Suspend	4-1-2008	580-050-0020	2-19-2008	Suspend	4-1-2008
580-040-0200	7-21-2008	Repeal	9-1-2008	580-050-0020	7-21-2008	Repeal	9-1-2008
580-040-0205	2-19-2008	Suspend	4-1-2008	580-050-0025	2-19-2008	Suspend	4-1-2008
580-040-0205	7-21-2008	Repeal	9-1-2008	580-050-0025	7-21-2008	Repeal	9-1-2008
580-040-0210	2-19-2008	Suspend	4-1-2008	580-050-0032	2-19-2008	Suspend	4-1-2008
580-040-0210	7-21-2008	Repeal	9-1-2008	580-050-0032	7-21-2008	Repeal	9-1-2008
580-040-0215	2-19-2008	Suspend	4-1-2008	580-050-0033	2-19-2008	Suspend	4-1-2008
580-040-0215	7-21-2008	Repeal	9-1-2008	580-050-0033	7-21-2008	Repeal	9-1-2008
580-040-0220	2-19-2008	Suspend	4-1-2008	580-050-0040	2-19-2008	Suspend	4-1-2008
580-040-0220	7-21-2008	Repeal	9-1-2008	580-050-0040	7-21-2008	Repeal	9-1-2008
580-040-0223	2-19-2008	Suspend	4-1-2008	580-050-0041	2-19-2008	Suspend	4-1-2008
580-040-0223	7-21-2008	Repeal	9-1-2008	580-050-0041	7-21-2008	Repeal	9-1-2008
580-040-0225	2-19-2008	Suspend	4-1-2008	580-050-0042	2-19-2008	Suspend	4-1-2008
580-040-0225	7-21-2008	Repeal	9-1-2008	580-050-0042	7-21-2008	Repeal	9-1-2008
580-040-0230	2-19-2008	Suspend	4-1-2008	580-050-0100	2-19-2008	Suspend	4-1-2008
580-040-0230	7-21-2008	Repeal	9-1-2008	580-050-0100	7-21-2008	Repeal	9-1-2008
580-040-0235	2-19-2008	Suspend	4-1-2008	580-050-0105	2-19-2008	Suspend	4-1-2008
580-040-0235	7-21-2008	Repeal	9-1-2008	580-050-0105	7-21-2008	Repeal	9-1-2008
580-040-0240	2-19-2008	Suspend	4-1-2008	580-060-0000	2-19-2008	Adopt(T)	4-1-2008
580-040-0240	7-21-2008	Repeal	9-1-2008	580-060-0000	7-21-2008	Adopt	9-1-2008
580-040-0245	2-19-2008	Suspend	4-1-2008	580-060-0005	2-19-2008	Adopt(T)	4-1-2008
580-040-0245	7-21-2008	Repeal	9-1-2008	580-060-0005	7-21-2008	Adopt	9-1-2008
580-040-0255	2-19-2008	Suspend	4-1-2008	580-060-0010	2-19-2008	Adopt(T)	4-1-2008
580-040-0255	7-21-2008	Repeal	9-1-2008	580-060-0010	7-21-2008	Adopt	9-1-2008
580-040-0260	2-19-2008	Suspend	4-1-2008	580-060-0015	2-19-2008	Adopt(T)	4-1-2008
580-040-0260	7-21-2008	Repeal	9-1-2008	580-060-0015	7-21-2008	Adopt	9-1-2008
580-040-0275	2-19-2008	Suspend	4-1-2008	580-060-0020	2-19-2008	Adopt(T)	4-1-2008
580-040-0275	7-21-2008	Repeal	9-1-2008	580-060-0020	7-21-2008	Adopt	9-1-2008
580-040-0277	2-19-2008	Suspend	4-1-2008	580-060-0025	2-19-2008	Adopt(T)	4-1-2008
580-040-0277	7-21-2008	Repeal	9-1-2008	580-060-0025	7-21-2008	Adopt	9-1-2008
580-040-0280	2-19-2008	Suspend	4-1-2008	580-060-0030	2-19-2008	Adopt(T)	4-1-2008
580-040-0280	7-21-2008	Repeal	9-1-2008	580-060-0030	7-21-2008	Adopt	9-1-2008
580-040-0285	2-19-2008	Suspend	4-1-2008	580-060-0035	2-19-2008	Adopt(T)	4-1-2008
580-040-0285	7-21-2008	Repeal	9-1-2008	580-060-0035	7-21-2008	Adopt	9-1-2008
580-040-0290	2-19-2008	Suspend	4-1-2008	580-060-0040	2-19-2008	Adopt(T)	4-1-2008
580-040-0290	7-21-2008	Repeal	9-1-2008	580-060-0040	7-21-2008	Adopt	9-1-2008
580-040-0292	2-19-2008	Suspend	4-1-2008	580-060-0045	2-19-2008	Adopt(T)	4-1-2008
580-040-0292	7-21-2008	Repeal	9-1-2008	580-060-0045	7-21-2008	Adopt	9-1-2008

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580-060-0050	2-19-2008	Adopt(T)	4-1-2008	580-061-0130	2-19-2008	Adopt(T)	4-1-2008
580-060-0050	7-21-2008	Adopt	9-1-2008	580-061-0130	7-21-2008	Adopt	9-1-2008
580-060-0055	2-19-2008	Adopt(T)	4-1-2008	580-061-0135	2-19-2008	Adopt(T)	4-1-2008
580-060-0055	7-21-2008	Adopt	9-1-2008	580-061-0135	7-21-2008	Adopt	9-1-2008
580-060-0060	2-19-2008	Adopt(T)	4-1-2008	580-061-0140	2-19-2008	Adopt(T)	4-1-2008
580-060-0060	7-21-2008	Adopt	9-1-2008	580-061-0140	7-21-2008	Adopt	9-1-2008
580-061-0000	2-19-2008	Adopt(T)	4-1-2008	580-061-0145	2-19-2008	Adopt(T)	4-1-2008
580-061-0000	7-21-2008	Adopt	9-1-2008	580-061-0145	6-5-2008	Amend(T)	7-1-2008
580-061-0005	2-19-2008	Adopt(T)	4-1-2008	580-061-0145	7-21-2008	Adopt	9-1-2008
580-061-0005	7-21-2008	Adopt	9-1-2008	580-061-0145(T)	6-5-2008	Suspend	7-1-2008
580-061-0010	2-19-2008	Adopt(T)	4-1-2008	580-061-0150	2-19-2008	Adopt(T)	4-1-2008
580-061-0010	7-21-2008	Adopt	9-1-2008	580-061-0150	7-21-2008	Adopt	9-1-2008
580-061-0015	2-19-2008	Adopt(T)	4-1-2008	580-061-0155	2-19-2008	Adopt(T)	4-1-2008
580-061-0015	7-21-2008	Adopt	9-1-2008	580-061-0155	7-21-2008	Adopt	9-1-2008
580-061-0020	2-19-2008	Adopt(T)	4-1-2008	580-061-0160	2-19-2008	Adopt(T)	4-1-2008
580-061-0020	7-21-2008	Adopt	9-1-2008	580-061-0160	7-21-2008	Adopt	9-1-2008
580-061-0025	2-19-2008	Adopt(T)	4-1-2008	580-062-0000	2-19-2008	Adopt(T)	4-1-2008
580-061-0025	7-21-2008	Adopt	9-1-2008	580-062-0000	7-21-2008	Adopt	9-1-2008
580-061-0030	2-19-2008	Adopt(T)	4-1-2008	580-062-0005	2-19-2008	Adopt(T)	4-1-2008
580-061-0030	7-21-2008	Adopt	9-1-2008	580-062-0005	7-21-2008	Adopt	9-1-2008
580-061-0035	2-19-2008	Adopt(T)	4-1-2008	580-062-0010	2-19-2008	Adopt(T)	4-1-2008
580-061-0035	7-21-2008	Adopt	9-1-2008	580-062-0010	7-21-2008	Adopt	9-1-2008
580-061-0040	2-19-2008	Adopt(T)	4-1-2008	580-062-0015	2-19-2008	Adopt(T)	4-1-2008
580-061-0040	7-21-2008	Adopt	9-1-2008	580-062-0015	7-21-2008	Adopt	9-1-2008
580-061-0045	2-19-2008	Adopt(T)	4-1-2008	580-062-0020	2-19-2008	Adopt(T)	4-1-2008
580-061-0045	7-21-2008	Adopt	9-1-2008	580-062-0020	7-21-2008	Adopt	9-1-2008
580-061-0050	2-19-2008	Adopt(T)	4-1-2008	580-063-0000	2-19-2008	Adopt(T)	4-1-2008
580-061-0050	7-21-2008	Adopt	9-1-2008	580-063-0000	7-21-2008	Adopt	9-1-2008
580-061-0055	2-19-2008	Adopt(T)	4-1-2008	580-063-0005	2-19-2008	Adopt(T)	4-1-2008
580-061-0055	7-21-2008	Adopt	9-1-2008	580-063-0005	7-21-2008	Adopt	9-1-2008
580-061-0060	2-19-2008	Adopt(T)	4-1-2008	580-063-0010	2-19-2008	Adopt(T)	4-1-2008
580-061-0060	7-21-2008	Adopt	9-1-2008	580-063-0010	6-5-2008	Amend(T)	7-1-2008
580-061-0065	2-19-2008	Adopt(T)	4-1-2008	580-063-0010	7-21-2008	Adopt	9-1-2008
580-061-0065	7-21-2008	Adopt	9-1-2008	580-063-0010(T)	6-5-2008	Suspend	7-1-2008
580-061-0070	2-19-2008	Adopt(T)	4-1-2008	580-063-0015	2-19-2008	Adopt(T)	4-1-2008
580-061-0070	7-21-2008	Adopt	9-1-2008	580-063-0015	7-21-2008	Adopt	9-1-2008
580-061-0075	2-19-2008	Adopt(T)	4-1-2008	580-063-0020	2-19-2008	Adopt(T)	4-1-2008
580-061-0075	7-21-2008	Adopt	9-1-2008	580-063-0020	6-5-2008	Amend(T)	7-1-2008
580-061-0080	2-19-2008	Adopt(T)	4-1-2008	580-063-0020	7-21-2008	Adopt	9-1-2008
580-061-0080	7-21-2008	Adopt	9-1-2008	580-063-0020(T)	6-5-2008	Suspend	7-1-2008
580-061-0085	2-19-2008	Adopt(T)	4-1-2008	580-063-0025	2-19-2008	Adopt(T)	4-1-2008
580-061-0085	7-21-2008	Adopt	9-1-2008	580-063-0025	7-21-2008	Adopt	9-1-2008
580-061-0090	2-19-2008	Adopt(T)	4-1-2008	580-063-0030	2-19-2008	Adopt(T)	4-1-2008
580-061-0090	7-21-2008	Adopt	9-1-2008	580-063-0030	7-21-2008	Adopt	9-1-2008
580-061-0095	2-19-2008	Adopt(T)	4-1-2008	580-063-0035	2-19-2008	Adopt(T)	4-1-2008
580-061-0095	7-21-2008	Adopt	9-1-2008	580-063-0035	7-21-2008	Adopt	9-1-2008
580-061-0100	2-19-2008	Adopt(T)	4-1-2008	580-063-0040	2-19-2008	Adopt(T)	4-1-2008
580-061-0100	7-21-2008	Adopt	9-1-2008	580-063-0040	7-21-2008	Adopt	9-1-2008
580-061-0105	2-19-2008	Adopt(T)	4-1-2008	580-063-0045	2-19-2008	Adopt(T)	4-1-2008
580-061-0105	7-21-2008	Adopt	9-1-2008	580-063-0045	7-21-2008	Adopt	9-1-2008
580-061-0110	2-19-2008	Adopt(T)	4-1-2008	581-011-0085	9-26-2008	Am. & Ren.	11-1-2008
580-061-0110	7-21-2008	Adopt	9-1-2008	581-011-0140	1-25-2008	Amend	3-1-2008
580-061-0115	2-19-2008	Adopt(T)	4-1-2008	581-015-0055	2-22-2008	Repeal	4-1-2008
580-061-0115	7-21-2008	Adopt	9-1-2008	581-015-0065	2-22-2008	Repeal	4-1-2008
580-061-0120	2-19-2008	Adopt(T)	4-1-2008	581-015-2035	4-21-2008	Adopt	6-1-2008
580-061-0120	7-21-2008	Adopt	9-1-2008	581-015-2570	12-12-2007	Amend	1-1-2008
580-061-0125	2-19-2008	Adopt(T)	4-1-2008	581-015-2595	12-12-2007	Amend	1-1-2008
580-061-0125	7-21-2008	Adopt	9-1-2008	581-019-0033	2-22-2008	Adopt(T)	4-1-2008

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581-020-0065	1-25-2008	Amend	3-1-2008	581-023-0050	6-27-2008	Am. & Ren.	8-1-2008
581-020-0070	1-25-2008	Amend	3-1-2008	581-023-0100	6-27-2008	Amend	8-1-2008
581-020-0075	1-25-2008	Amend	3-1-2008	581-023-0104	12-12-2007	Amend	1-1-2008
581-020-0080	1-25-2008	Amend	3-1-2008	581-023-0112	4-21-2008	Amend	6-1-2008
581-020-0085	1-25-2008	Amend	3-1-2008	581-024-0205	5-23-2008	Amend	7-1-2008
581-020-0090	1-25-2008	Amend	3-1-2008	581-024-0245	5-23-2008	Amend	7-1-2008
581-020-0250	12-12-2007	Adopt	1-1-2008	581-024-0285	12-12-2007	Amend	1-1-2008
581-020-0339	6-27-2008	Adopt	8-1-2008	581-045-0001	5-23-2008	Amend	7-1-2008
581-020-0359	3-21-2008	Adopt	5-1-2008	581-049-0020	5-23-2008	Amend	7-1-2008
581-020-0361	3-21-2008	Adopt	5-1-2008	581-053-5556	4-18-2008	Amend	6-1-2008
581-021-0019	8-29-2008	Adopt	10-1-2008	582-001-0010	2-4-2008	Amend	3-1-2008
581-021-0045	5-23-2008	Amend	7-1-2008	582-001-0010	3-3-2008	Amend	4-1-2008
581-021-0046	5-23-2008	Amend	7-1-2008	582-001-0010	4-10-2008	Amend	5-1-2008
581-021-0211	9-26-2008	Repeal	11-1-2008	582-030-0005	2-4-2008	Amend	3-1-2008
581-021-0500	9-26-2008	Adopt	11-1-2008	582-030-0008	2-4-2008	Amend	3-1-2008
581-022-0102	9-26-2008	Amend	11-1-2008	582-070-0020	2-4-2008	Amend	3-1-2008
581-022-01670	9-26-2008	Amend	11-1-2008	582-070-0020	3-3-2008	Amend	4-1-2008
581-022-0405	6-27-2008	Amend	8-1-2008	582-070-0020	4-10-2008	Amend	5-1-2008
581-022-0413	5-23-2008	Amend	7-1-2008	582-070-0025	2-4-2008	Amend	3-1-2008
581-022-0416	8-29-2008	Adopt	10-1-2008	582-070-0030	2-4-2008	Amend	3-1-2008
581-022-0606	9-26-2008	Amend	11-1-2008	582-080-0020	3-3-2008	Amend	4-1-2008
581-022-0612	9-26-2008	Amend	11-1-2008	583-050-0011	2-7-2008	Amend	3-1-2008
581-022-0615	6-27-2008	Adopt	8-1-2008	583-070-0002	4-14-2008	Adopt	5-1-2008
581-022-0803	9-26-2008	Repeal	11-1-2008	583-070-0011	4-14-2008	Adopt	5-1-2008
581-022-0807	9-26-2008	Amend	11-1-2008	583-070-0015	4-14-2008	Adopt	5-1-2008
581-022-1020	9-26-2008	Amend	11-1-2008	583-070-0020	4-14-2008	Adopt	5-1-2008
581-022-1060	9-26-2008	Amend	11-1-2008	584-005-0005	4-15-2008	Amend	5-1-2008
581-022-1065	1-25-2008	Amend	3-1-2008	584-005-0005	5-30-2008	Amend(T)	7-1-2008
581-022-1110	9-26-2008	Repeal	11-1-2008	584-005-0005	8-20-2008	Amend	10-1-2008
581-022-1111	9-26-2008	Repeal	11-1-2008	584-010-0006	4-15-2008	Adopt	5-1-2008
581-022-1115	9-26-2008	Repeal	11-1-2008	584-010-0010	4-15-2008	Amend	5-1-2008
581-022-1120	9-26-2008	Repeal	11-1-2008	584-010-0015	4-15-2008	Amend	5-1-2008
581-022-1130	6-27-2008	Amend	8-1-2008	584-010-0020	4-15-2008	Amend	5-1-2008
581-022-1134	5-23-2008	Adopt	7-1-2008	584-010-0025	4-15-2008	Amend	5-1-2008
581-022-1135	5-23-2008	Adopt	7-1-2008	584-010-0030	4-15-2008	Amend	5-1-2008
581-022-1140	9-26-2008	Amend	11-1-2008	584-010-0035	4-15-2008	Amend	5-1-2008
581-022-1210	9-26-2008	Amend	11-1-2008	584-010-0040	4-15-2008	Repeal	5-1-2008
581-022-1340	9-26-2008	Amend	11-1-2008	584-010-0045	4-15-2008	Amend	5-1-2008
581-022-1350	9-26-2008	Amend	11-1-2008	584-010-0050	4-15-2008	Amend	5-1-2008
581-022-1510	6-27-2008	Amend	8-1-2008	584-010-0055	4-15-2008	Amend	5-1-2008
581-022-1620	9-26-2008	Amend	11-1-2008	584-010-0060	4-15-2008	Amend	5-1-2008
581-022-1630	9-26-2008	Amend	11-1-2008	584-010-0065	4-15-2008	Repeal	5-1-2008
581-022-1661	12-12-2007	Adopt	1-1-2008	584-010-0070	4-15-2008	Repeal	5-1-2008
581-022-1710	9-26-2008	Amend	11-1-2008	584-010-0080	4-15-2008	Amend	5-1-2008
581-022-1720	9-26-2008	Amend	11-1-2008	584-010-0090	4-15-2008	Amend	5-1-2008
581-022-1730	9-26-2008	Amend	11-1-2008	584-010-0100	4-15-2008	Amend	5-1-2008
581-022-1732	9-26-2008	Am. & Ren.	11-1-2008	584-010-0120	4-15-2008	Repeal	5-1-2008
581-022-1735	9-26-2008	Renumber	11-1-2008	584-010-0140	4-15-2008	Amend	5-1-2008
581-022-1920	9-26-2008	Amend	11-1-2008	584-017-0001	4-15-2008	Am. & Ren.	5-1-2008
581-022-1930	9-26-2008	Repeal	11-1-2008	584-017-0115	6-13-2008	Amend	7-1-2008
581-022-1940	12-12-2007	Amend	1-1-2008	584-017-0120	8-20-2008	Amend	10-1-2008
581-022-1941	12-12-2007	Adopt	1-1-2008	584-017-0130	8-20-2008	Amend	10-1-2008
581-023-0006	8-29-2008	Amend	10-1-2008	584-017-0175	4-15-2008	Amend	5-1-2008
581-023-0008	8-29-2008	Amend	10-1-2008	584-017-0185	2-15-2008	Amend(T)	3-1-2008
581-023-0012	8-29-2008	Adopt	10-1-2008	584-017-0185	6-13-2008	Amend	7-1-2008
581-023-0035	2-22-2008	Amend	4-1-2008	584-017-0251	8-20-2008	Amend	10-1-2008
581-023-0040	3-21-2008	Amend	5-1-2008	584-017-0261	8-20-2008	Amend	10-1-2008

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584-017-0351	12-14-2007	Adopt	1-1-2008	584-050-0019	12-14-2007	Amend	1-1-2008
584-017-0355	4-15-2008	Amend	5-1-2008	584-050-0020	12-14-2007	Amend	1-1-2008
584-017-0442	4-15-2008	Repeal	5-1-2008	584-050-0022	8-20-2008	Repeal	10-1-2008
584-017-0452	4-15-2008	Repeal	5-1-2008	584-050-0035	12-14-2007	Amend	1-1-2008
584-019-0002	12-14-2007	Amend	1-1-2008	584-050-0040	12-14-2007	Amend	1-1-2008
584-019-0003	12-14-2007	Amend	1-1-2008	584-050-0042	12-14-2007	Amend	1-1-2008
584-019-0020	12-14-2007	Repeal	1-1-2008	584-050-0065	12-14-2007	Amend	1-1-2008
584-019-0025	12-14-2007	Amend	1-1-2008	584-050-0066	12-14-2007	Amend	1-1-2008
584-019-0035	12-14-2007	Amend	1-1-2008	584-050-0067	12-14-2007	Amend	1-1-2008
584-019-0040	12-14-2007	Amend	1-1-2008	584-050-0070	12-14-2007	Amend	1-1-2008
584-020-0000	12-14-2007	Amend	1-1-2008	584-052-0015	4-15-2008	Amend	5-1-2008
584-020-0005	12-14-2007	Amend	1-1-2008	584-052-0032	12-14-2007	Amend	1-1-2008
584-020-0010	12-14-2007	Amend	1-1-2008	584-060-0002	4-15-2008	Amend	5-1-2008
584-020-0015	12-14-2007	Amend	1-1-2008	584-060-0012	12-14-2007	Amend	1-1-2008
584-020-0020	12-14-2007	Amend	1-1-2008	584-060-0012	4-15-2008	Amend	5-1-2008
584-020-0025	12-14-2007	Amend	1-1-2008	584-060-0012	8-20-2008	Amend	10-1-2008
584-020-0030	12-14-2007	Amend	1-1-2008	584-060-0014	4-15-2008	Amend	5-1-2008
584-020-0035	12-14-2007	Amend	1-1-2008	584-060-0014	8-20-2008	Amend	10-1-2008
584-020-0040	12-14-2007	Amend	1-1-2008	584-060-0051	2-15-2008	Amend(T)	3-1-2008
584-020-0041	12-14-2007	Amend	1-1-2008	584-060-0051	8-12-2008	Amend	9-1-2008
584-021-0105	6-13-2008	Amend	7-1-2008	584-060-0052	4-15-2008	Amend	5-1-2008
584-021-0175	6-13-2008	Repeal	7-1-2008	584-060-0062	8-20-2008	Amend	10-1-2008
584-023-0005	12-14-2007	Amend	1-1-2008	584-060-0162	8-20-2008	Amend	10-1-2008
584-023-0015	12-14-2007	Amend	1-1-2008	584-060-0171	8-20-2008	Amend	10-1-2008
584-023-0025	12-14-2007	Amend	1-1-2008	584-060-0181	8-20-2008	Amend	10-1-2008
584-036-0010	8-20-2008	Amend	10-1-2008	584-060-0210	4-15-2008	Amend	5-1-2008
584-036-0055	6-13-2008	Amend	7-1-2008	584-065-0070	4-15-2008	Amend	5-1-2008
584-036-0055	8-20-2008	Amend	10-1-2008	584-065-0080	4-15-2008	Amend	5-1-2008
584-036-0060	6-13-2008	Repeal	7-1-2008	584-065-0120	6-13-2008	Adopt	7-1-2008
584-036-0067	4-15-2008	Amend	5-1-2008	584-070-0011	12-14-2007	Repeal	1-1-2008
584-038-0004	4-15-2008	Amend	5-1-2008	584-070-0012	6-13-2008	Amend	7-1-2008
584-038-0080	12-14-2007	Amend	1-1-2008	584-070-0014	12-14-2007	Amend	1-1-2008
584-038-0335	12-14-2007	Amend	1-1-2008	584-070-0021	12-14-2007	Repeal	1-1-2008
584-038-0336	12-14-2007	Amend	1-1-2008	584-070-0111	8-20-2008	Amend	10-1-2008
584-040-0080	12-14-2007	Amend	1-1-2008	584-070-0112	8-20-2008	Amend	10-1-2008
584-040-0310	12-14-2007	Amend	1-1-2008	584-070-0132	4-15-2008	Amend	5-1-2008
584-040-0315	12-14-2007	Amend	1-1-2008	584-070-0271	8-20-2008	Amend	10-1-2008
584-044-0011	4-15-2008	Amend	5-1-2008	584-070-0310	8-20-2008	Amend	10-1-2008
584-044-0015	4-15-2008	Amend	5-1-2008	584-070-0320	4-15-2008	Repeal	5-1-2008
584-044-0023	4-15-2008	Amend	5-1-2008	584-080-0002	8-20-2008	Amend	10-1-2008
584-046-0003	6-13-2008	Amend	7-1-2008	584-080-0012	8-20-2008	Amend	10-1-2008
584-046-0016	6-13-2008	Amend	7-1-2008	584-080-0022	8-20-2008	Amend	10-1-2008
584-046-0019	6-13-2008	Amend	7-1-2008	584-080-0151	8-20-2008	Amend	10-1-2008
584-046-0020	4-15-2008	Amend	5-1-2008	584-080-0152	8-20-2008	Amend	10-1-2008
584-046-0020	6-13-2008	Amend	7-1-2008	584-080-0153	8-20-2008	Amend	10-1-2008
584-046-0021	6-13-2008	Amend	7-1-2008	584-080-0161	8-20-2008	Amend	10-1-2008
584-046-0024	4-15-2008	Amend	5-1-2008	584-100-0006	6-5-2008	Amend(T)	7-1-2008
584-048-0045	6-13-2008	Repeal	7-1-2008	584-100-0006	8-20-2008	Amend	10-1-2008
584-048-0105	4-15-2008	Amend	5-1-2008	584-100-0011	8-20-2008	Amend	10-1-2008
584-050-0002	12-14-2007	Amend	1-1-2008	584-100-0051	8-20-2008	Amend	10-1-2008
584-050-0005	12-14-2007	Amend	1-1-2008	589-020-0225	9-18-2008	Amend(T)	11-1-2008
584-050-0006	12-14-2007	Amend	1-1-2008	603-009-0300	7-30-2008	Adopt(T)	9-1-2008
584-050-0009	12-14-2007	Amend	1-1-2008	603-009-0310	7-30-2008	Adopt(T)	9-1-2008
584-050-0012	12-14-2007	Amend	1-1-2008	603-009-0320	7-30-2008	Adopt(T)	9-1-2008
584-050-0015	12-14-2007	Amend	1-1-2008	603-009-0330	7-30-2008	Adopt(T)	9-1-2008
584-050-0015	8-20-2008	Amend	10-1-2008	603-009-0340	7-30-2008	Adopt(T)	9-1-2008
584-050-0016	12-14-2007	Amend	1-1-2008	603-009-0350	7-30-2008	Adopt(T)	9-1-2008

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603-011-0255	7-15-2008	Amend	8-1-2008	603-054-0017	1-7-2008	Amend	2-1-2008
603-011-0265	9-15-2008	Amend(T)	10-1-2008	603-054-0017	4-15-2008	Amend	5-1-2008
603-011-0610	11-28-2007	Amend	1-1-2008	603-054-0018	1-7-2008	Amend	2-1-2008
603-011-0610	9-1-2008	Amend	7-1-2008	603-054-0018	4-15-2008	Amend	5-1-2008
603-011-0615	9-1-2008	Adopt	7-1-2008	603-054-0024	1-7-2008	Amend	2-1-2008
603-011-0620	11-28-2007	Amend	1-1-2008	603-054-0035	2-15-2008	Amend	3-1-2008
603-011-0620	9-1-2008	Amend	7-1-2008	603-058-0032	1-1-2009	Adopt	6-1-2008
603-014-0016	2-6-2008	Amend	3-1-2008	617-010-0045	7-1-2008	Amend	7-1-2008
603-014-0055	2-6-2008	Amend	3-1-2008	620-010-0020	10-6-2008	Amend(T)	11-1-2008
603-014-0065	2-6-2008	Amend	3-1-2008	620-020-0010	1-25-2008	Adopt	3-1-2008
603-014-0095	2-6-2008	Amend	3-1-2008	620-020-0020	1-25-2008	Adopt	3-1-2008
603-014-0095	9-12-2008	Amend	10-1-2008	620-020-0030	1-25-2008	Adopt	3-1-2008
603-014-0100	2-6-2008	Repeal	3-1-2008	623-040-0005	12-3-2007	Adopt	1-1-2008
603-014-0135	2-6-2008	Amend	3-1-2008	623-040-0010	12-3-2007	Adopt	1-1-2008
603-027-0410	2-15-2008	Amend	3-1-2008	623-040-0015	12-3-2007	Adopt	1-1-2008
603-027-0410	3-17-2008	Amend(T)	4-1-2008	624-030-0010	7-15-2008	Amend	8-1-2008
603-027-0410	9-11-2008	Amend	10-1-2008	624-040-0010	7-15-2008	Adopt	8-1-2008
603-027-0420	11-29-2007	Amend(T)	1-1-2008	624-040-0020	7-15-2008	Adopt	8-1-2008
603-027-0420	2-15-2008	Amend	3-1-2008	624-040-0030	7-15-2008	Adopt	8-1-2008
603-027-0420	3-17-2008	Amend(T)	4-1-2008	629-001-0005	3-7-2008	Amend	4-1-2008
603-027-0420	9-11-2008	Amend	10-1-2008	629-023-0420	9-1-2008	Amend	9-1-2008
603-027-0420(T)	11-29-2007	Suspend	1-1-2008	629-023-0430	9-1-2008	Amend	9-1-2008
603-027-0430	11-29-2007	Amend(T)	1-1-2008	629-023-0440	9-1-2008	Amend	9-1-2008
603-027-0430	2-15-2008	Amend	3-1-2008	629-023-0450	9-1-2008	Amend	9-1-2008
603-027-0430	3-17-2008	Amend(T)	4-1-2008	629-041-0555	5-12-2008	Amend	6-1-2008
603-027-0430	9-11-2008	Amend	10-1-2008	629-041-0557	5-12-2008	Amend	6-1-2008
603-027-0430(T)	11-29-2007	Suspend	1-1-2008	629-043-0040	1-1-2008	Amend	2-1-2008
603-027-0440	2-15-2008	Amend	3-1-2008	629-043-0041	1-1-2008	Repeal	2-1-2008
603-027-0440	3-17-2008	Amend(T)	4-1-2008	629-043-0043	1-1-2008	Repeal	2-1-2008
603-027-0440	9-11-2008	Amend	10-1-2008	629-048-0001	1-1-2008	Adopt	2-1-2008
603-027-0450	9-11-2008	Amend	10-1-2008	629-048-0005	1-1-2008	Adopt	2-1-2008
603-027-0460	9-11-2008	Amend	10-1-2008	629-048-0010	1-1-2008	Adopt	2-1-2008
603-027-0470	2-15-2008	Amend	3-1-2008	629-048-0020	1-1-2008	Adopt	2-1-2008
603-027-0490	2-15-2008	Amend	3-1-2008	629-048-0100	1-1-2008	Adopt	2-1-2008
603-027-0490	3-17-2008	Amend(T)	4-1-2008	629-048-0110	1-1-2008	Adopt	2-1-2008
603-027-0490	9-11-2008	Amend	10-1-2008	629-048-0120	1-1-2008	Adopt	2-1-2008
603-052-0127	2-8-2008	Amend	3-1-2008	629-048-0130	1-1-2008	Adopt	2-1-2008
603-052-0129	2-8-2008	Amend	3-1-2008	629-048-0140	1-1-2008	Adopt	2-1-2008
603-052-0130	2-8-2008	Repeal	3-1-2008	629-048-0150	1-1-2008	Adopt	2-1-2008
603-052-0132	2-8-2008	Repeal	3-1-2008	629-048-0160	1-1-2008	Adopt	2-1-2008
603-052-0134	2-8-2008	Repeal	3-1-2008	629-048-0200	1-1-2008	Adopt	2-1-2008
603-052-0136	2-8-2008	Repeal	3-1-2008	629-048-0210	1-1-2008	Adopt	2-1-2008
603-052-0138	2-8-2008	Repeal	3-1-2008	629-048-0220	1-1-2008	Adopt	2-1-2008
603-052-0140	2-8-2008	Repeal	3-1-2008	629-048-0230	1-1-2008	Adopt	2-1-2008
603-052-0142	2-8-2008	Repeal	3-1-2008	629-048-0300	1-1-2008	Adopt	2-1-2008
603-052-0145	2-8-2008	Repeal	3-1-2008	629-048-0310	1-1-2008	Adopt	2-1-2008
603-052-0265	7-11-2008	Amend	8-1-2008	629-048-0320	1-1-2008	Adopt	2-1-2008
603-052-0347	1-11-2008	Amend	2-1-2008	629-048-0330	1-1-2008	Adopt	2-1-2008
603-052-0360	2-8-2008	Amend	3-1-2008	629-048-0400	1-1-2008	Adopt	2-1-2008
603-052-0395	2-28-2008	Adopt	4-1-2008	629-048-0450	1-1-2008	Adopt	2-1-2008
603-052-0880	1-7-2008	Amend	2-1-2008	629-048-0500	1-1-2008	Adopt	2-1-2008
603-052-1200	3-7-2008	Amend	4-1-2008	629-623-0400	7-18-2008	Amend(T)	8-1-2008
603-052-1221	2-8-2008	Amend	3-1-2008	629-623-0500	7-18-2008	Suspend	8-1-2008
603-052-1230	1-16-2008	Amend	3-1-2008	635-001-0210	1-1-2008	Amend	2-1-2008
603-052-1240	1-7-2008	Amend	2-1-2008	635-003-0003	5-1-2008	Amend	6-1-2008
603-052-1250	1-16-2008	Amend	3-1-2008	635-003-0004	3-15-2008	Amend(T)	4-1-2008
603-054-0016	1-7-2008	Amend	2-1-2008	635-003-0004	6-21-2008	Amend(T)	8-1-2008

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635-003-0004(T)	6-21-2008	Suspend	8-1-2008	635-011-0100	1-1-2008	Amend	2-1-2008
635-003-0077	6-21-2008	Amend(T)	8-1-2008	635-013-0003	1-1-2008	Amend	2-1-2008
635-003-0085	9-1-2008	Amend(T)	8-1-2008	635-013-0003	5-1-2008	Amend	6-1-2008
635-003-0085	10-12-2008	Amend(T)	11-1-2008	635-013-0004	1-1-2008	Amend	2-1-2008
635-003-0085(T)	10-12-2008	Suspend	11-1-2008	635-013-0004	3-15-2008	Amend(T)	4-1-2008
635-004-0016	6-24-2008	Amend(T)	8-1-2008	635-013-0004	6-21-2008	Amend(T)	8-1-2008
635-004-0016	8-6-2008	Amend(T)	9-1-2008	635-013-0004	8-15-2008	Amend(T)	9-1-2008
635-004-0016	9-22-2008	Amend(T)	11-1-2008	635-013-0004(T)	6-21-2008	Suspend	8-1-2008
635-004-0016(T)	8-6-2008	Suspend	9-1-2008	635-013-0004(T)	8-1-2008	Suspend	8-1-2008
635-004-0016(T)	9-22-2008	Suspend	11-1-2008	635-013-0004(T)	8-15-2008	Suspend	9-1-2008
635-004-0018	1-1-2008	Amend	1-1-2008	635-013-0007	8-1-2008	Amend(T)	8-1-2008
635-004-0019	11-28-2007	Amend(T)	1-1-2008	635-013-0007	10-2-2008	Amend(T)	11-1-2008
635-004-0019	12-11-2007	Amend(T)	1-1-2008	635-013-0009	3-15-2008	Amend(T)	4-1-2008
635-004-0019	5-1-2008	Amend(T)	6-1-2008	635-013-0009	8-1-2008	Amend(T)	8-1-2008
635-004-0019	8-1-2008	Amend(T)	9-1-2008	635-013-0009(T)	8-1-2008	Suspend	8-1-2008
635-004-0019(T)	11-28-2007	Suspend	1-1-2008	635-014-0080	1-1-2008	Amend	2-1-2008
635-004-0019(T)	8-1-2008	Suspend	9-1-2008	635-014-0090	1-1-2008	Amend	2-1-2008
635-004-0027	1-1-2008	Amend(T)	2-1-2008	635-014-0090	3-15-2008	Amend(T)	4-1-2008
635-004-0033	11-28-2007	Amend(T)	1-1-2008	635-014-0090	8-1-2008	Amend(T)	8-1-2008
635-004-0033	1-1-2008	Amend	1-1-2008	635-014-0090(T)	8-1-2008	Suspend	8-1-2008
635-004-0033	7-1-2008	Amend(T)	8-1-2008	635-016-0080	1-1-2008	Amend	2-1-2008
635-004-0033	10-2-2008	Amend(T)	11-1-2008	635-016-0090	1-1-2008	Amend	2-1-2008
635-004-0033(T)	11-28-2007	Suspend	1-1-2008	635-016-0090	1-1-2008	Amend	2-1-2008
635-004-0033(T)	10-2-2008	Suspend	11-1-2008	635-016-0090	6-1-2008	Amend(T)	7-1-2008
635-004-0038	8-11-2008	Amend(T)	9-1-2008	635-016-0090	8-1-2008	Amend(T)	8-1-2008
635-004-0170	11-28-2007	Amend(T)	1-1-2008	635-017-0080	1-1-2008	Amend	2-1-2008
635-004-0170	1-1-2008	Amend	1-1-2008	635-017-0090	1-1-2008	Amend	2-1-2008
635-005-0005	1-23-2008	Amend	3-1-2008	635-017-0090	1-1-2008	Amend	2-1-2008
635-005-0055	12-11-2007	Amend(T)	1-1-2008	635-017-0090	1-9-2008	Amend(T)	2-1-2008
635-005-0055	12-14-2007	Amend(T)	1-1-2008	635-017-0090	2-1-2008	Amend(T)	3-1-2008
635-005-0055	12-14-2007	Suspend	1-1-2008	635-017-0090	3-1-2008	Amend(T)	4-1-2008
635-005-0055	3-25-2008	Amend(T)	5-1-2008	635-017-0090	5-12-2008	Amend(T)	6-1-2008
635-005-0055	6-11-2008	Amend(T)	7-1-2008	635-017-0090	6-2-2008	Amend(T)	7-1-2008
635-005-0055	8-29-2008	Amend(T)	10-1-2008	635-017-0090	7-29-2008	Amend(T)	9-1-2008
635-005-0055(T)	3-25-2008	Suspend	5-1-2008	635-017-0090	9-17-2008	Amend(T)	10-1-2008
635-005-0055(T)	6-11-2008	Suspend	7-1-2008	635-017-0090	10-2-2008	Amend(T)	11-1-2008
635-005-0064	1-23-2008	Amend	3-1-2008	635-017-0090(T)	2-1-2008	Suspend	3-1-2008
635-005-0065	1-23-2008	Amend	3-1-2008	635-017-0090(T)	5-12-2008	Suspend	6-1-2008
635-005-0066	1-23-2008	Amend	3-1-2008	635-017-0090(T)	6-2-2008	Suspend	7-1-2008
635-006-0212	7-10-2008	Amend(T)	8-1-2008	635-017-0090(T)	7-29-2008	Suspend	9-1-2008
635-006-0215	7-10-2008	Amend(T)	8-1-2008	635-017-0090(T)	9-17-2008	Suspend	10-1-2008
635-006-0225	4-1-2008	Amend(T)	5-1-2008	635-017-0090(T)	10-2-2008	Suspend	11-1-2008
635-006-0225	7-10-2008	Amend(T)	8-1-2008	635-017-0095	1-1-2008	Amend	2-1-2008
635-006-0225(T)	7-10-2008	Suspend	8-1-2008	635-017-0095	1-1-2008	Amend(T)	2-1-2008
635-006-0230	4-1-2008	Amend(T)	5-1-2008	635-017-0095	2-11-2008	Amend	3-1-2008
635-006-0232	1-15-2008	Amend	2-1-2008	635-017-0095	7-25-2008	Amend(T)	9-1-2008
635-006-0850	1-1-2008	Amend(T)	2-1-2008	635-017-0095(T)	1-1-2008	Suspend	2-1-2008
635-006-0850	1-23-2008	Amend	3-1-2008	635-017-0095(T)	2-11-2008	Repeal	3-1-2008
635-006-0850(T)	1-23-2008	Repeal	3-1-2008	635-018-0080	1-1-2008	Amend	2-1-2008
635-006-0910	1-23-2008	Amend	3-1-2008	635-018-0090	1-1-2008	Amend	2-1-2008
635-006-0930	1-23-2008	Amend	3-1-2008	635-018-0090	4-15-2008	Amend(T)	5-1-2008
635-006-1015	1-15-2008	Amend	2-1-2008	635-018-0090	5-1-2008	Amend(T)	5-1-2008
635-006-1065	1-15-2008	Amend	2-1-2008	635-019-0080	1-1-2008	Amend	2-1-2008
635-006-1075	1-15-2008	Amend	2-1-2008	635-019-0090	1-1-2008	Amend	2-1-2008
635-008-0115	4-24-2008	Amend	6-1-2008	635-019-0090	5-31-2008	Amend(T)	7-1-2008
635-008-0120	4-24-2008	Amend	6-1-2008	635-019-0090	7-9-2008	Amend(T)	8-1-2008
635-010-0015	10-14-2008	Amend	11-1-2008	635-021-0080	1-1-2008	Amend	2-1-2008
635-010-0170	10-14-2008	Adopt	11-1-2008	635-021-0090	1-1-2008	Amend	2-1-2008

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635-021-0090	5-31-2008	Amend(T)	7-1-2008	635-039-0085(T)	9-27-2008	Suspend	11-1-2008
635-021-0090	7-4-2008	Amend(T)	8-1-2008	635-039-0090	1-1-2008	Amend	2-1-2008
635-021-0090	7-9-2008	Amend(T)	8-1-2008	635-039-0090	7-7-2008	Amend(T)	8-1-2008
635-021-0090(T)	7-4-2008	Suspend	8-1-2008	635-039-0090	8-21-2008	Amend(T)	10-1-2008
635-021-0090(T)	7-9-2008	Suspend	8-1-2008	635-039-0090	9-7-2008	Amend(T)	10-1-2008
635-023-0080	1-1-2008	Amend	2-1-2008	635-039-0090(T)	8-21-2008	Suspend	10-1-2008
635-023-0090	1-1-2008	Amend	2-1-2008	635-039-0090(T)	9-7-2008	Suspend	10-1-2008
635-023-0095	1-1-2008	Amend	2-1-2008	635-041-0050	2-11-2008	Amend	3-1-2008
635-023-0095	1-1-2008	Amend(T)	2-1-2008	635-041-0065	1-31-2008	Amend(T)	3-1-2008
635-023-0095	2-11-2008	Amend	3-1-2008	635-041-0065	2-29-2008	Amend(T)	4-1-2008
635-023-0095	3-15-2008	Amend(T)	4-1-2008	635-041-0065	3-5-2008	Amend(T)	4-1-2008
635-023-0095	3-26-2008	Amend(T)	5-1-2008	635-041-0065	3-10-2008	Amend(T)	4-1-2008
635-023-0095	7-10-2008	Amend(T)	8-1-2008	635-041-0065(T)	3-10-2008	Suspend	4-1-2008
635-023-0095	7-12-2008	Amend(T)	8-1-2008	635-041-0075	9-6-2008	Amend(T)	10-1-2008
635-023-0095	7-25-2008	Amend(T)	9-1-2008	635-041-0075	9-15-2008	Amend(T)	10-1-2008
635-023-0095(T)	1-1-2008	Suspend	2-1-2008	635-041-0075	9-18-2008	Amend(T)	11-1-2008
635-023-0095(T)	2-11-2008	Repeal	3-1-2008	635-041-0075	9-22-2008	Amend(T)	11-1-2008
635-023-0095(T)	7-10-2008	Suspend	8-1-2008	635-041-0075	9-29-2008	Amend(T)	11-1-2008
635-023-0095(T)	7-12-2008	Suspend	8-1-2008	635-041-0075	10-7-2008	Amend(T)	11-1-2008
635-023-0095(T)	7-25-2008	Suspend	9-1-2008	635-041-0075(T)	9-15-2008	Suspend	10-1-2008
635-023-0125	1-1-2008	Amend	2-1-2008	635-041-0075(T)	9-18-2008	Suspend	11-1-2008
635-023-0125	2-25-2008	Amend(T)	4-1-2008	635-041-0075(T)	9-22-2008	Suspend	11-1-2008
635-023-0125	2-27-2008	Amend(T)	4-1-2008	635-041-0075(T)	9-29-2008	Suspend	11-1-2008
635-023-0125	4-21-2008	Amend(T)	6-1-2008	635-041-0075(T)	10-7-2008	Suspend	11-1-2008
635-023-0125	5-13-2008	Amend(T)	6-1-2008	635-041-0076	5-5-2008	Amend(T)	6-1-2008
635-023-0125(T)	4-21-2008	Suspend	6-1-2008	635-041-0076	5-11-2008	Amend(T)	6-1-2008
635-023-0125(T)	5-13-2008	Suspend	6-1-2008	635-041-0076	6-16-2008	Amend(T)	7-1-2008
635-023-0128	1-1-2008	Amend	2-1-2008	635-041-0076	6-21-2008	Amend(T)	8-1-2008
635-023-0128	5-1-2008	Amend	6-1-2008	635-041-0076	6-28-2008	Amend(T)	8-1-2008
635-023-0128	6-16-2008	Amend(T)	7-1-2008	635-041-0076	7-10-2008	Amend(T)	8-1-2008
635-023-0128	6-21-2008	Amend(T)	8-1-2008	635-041-0076	7-25-2008	Amend(T)	9-1-2008
635-023-0128	6-28-2008	Amend(T)	8-1-2008	635-041-0076	8-14-2008	Amend(T)	9-1-2008
635-023-0128(T)	6-21-2008	Suspend	8-1-2008	635-041-0076(T)	5-11-2008	Suspend	6-1-2008
635-023-0128(T)	6-28-2008	Suspend	8-1-2008	635-041-0076(T)	6-16-2008	Suspend	7-1-2008
635-023-0130	1-1-2008	Amend	2-1-2008	635-041-0076(T)	6-21-2008	Suspend	8-1-2008
635-023-0130	5-1-2008	Amend	6-1-2008	635-041-0076(T)	6-28-2008	Suspend	8-1-2008
635-023-0130	8-25-2008	Amend(T)	10-1-2008	635-041-0076(T)	7-10-2008	Suspend	8-1-2008
635-023-0130	8-31-2008	Amend(T)	10-1-2008	635-041-0076(T)	7-25-2008	Suspend	9-1-2008
635-023-0130	9-18-2008	Amend(T)	11-1-2008	635-041-0076(T)	8-14-2008	Suspend	9-1-2008
635-023-0130	9-25-2008	Amend(T)	11-1-2008	635-042-0010	2-11-2008	Amend	3-1-2008
635-023-0130(T)	8-31-2008	Suspend	10-1-2008	635-042-0022	4-1-2008	Amend(T)	5-1-2008
635-023-0130(T)	9-18-2008	Suspend	11-1-2008	635-042-0022	4-8-2008	Amend(T)	5-1-2008
635-023-0130(T)	9-25-2008	Suspend	11-1-2008	635-042-0022	4-15-2008	Amend(T)	5-1-2008
635-023-0134	4-26-2008	Amend(T)	6-1-2008	635-042-0022(T)	4-15-2008	Suspend	5-1-2008
635-023-0134	6-21-2008	Amend(T)	8-1-2008	635-042-0022(T)	6-28-2008	Suspend	8-1-2008
635-023-0134(T)	6-21-2008	Suspend	8-1-2008	635-042-0025	6-28-2008	Amend(T)	8-1-2008
635-039-0080	1-1-2008	Amend	2-1-2008	635-042-0027	6-21-2008	Amend(T)	8-1-2008
635-039-0085	6-1-2008	Amend(T)	7-1-2008	635-042-0027	6-24-2008	Amend(T)	7-1-2008
635-039-0085	8-2-2008	Amend(T)	8-1-2008	635-042-0027	7-7-2008	Amend(T)	8-1-2008
635-039-0085	8-11-2008	Amend(T)	9-1-2008	635-042-0027(T)	6-21-2008	Suspend	8-1-2008
635-039-0085	8-29-2008	Amend(T)	10-1-2008	635-042-0027(T)	7-7-2008	Suspend	8-1-2008
635-039-0085	9-7-2008	Amend(T)	10-1-2008	635-042-0031	8-1-2008	Amend(T)	9-1-2008
635-039-0085	9-16-2008	Amend(T)	11-1-2008	635-042-0031	8-12-2008	Amend(T)	9-1-2008
635-039-0085	9-27-2008	Amend(T)	11-1-2008	635-042-0031	8-14-2008	Amend(T)	9-1-2008
635-039-0085(T)	8-11-2008	Suspend	9-1-2008	635-042-0031	8-25-2008	Amend(T)	10-1-2008
635-039-0085(T)	8-29-2008	Suspend	10-1-2008	635-042-0031	8-26-2008	Amend(T)	10-1-2008
635-039-0085(T)	9-7-2008	Suspend	10-1-2008	635-042-0031(T)	8-12-2008	Suspend	9-1-2008
635-039-0085(T)	9-16-2008	Suspend	11-1-2008	635-042-0031(T)	8-14-2008	Suspend	9-1-2008

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635-042-0031(T)	8-25-2008	Suspend	10-1-2008	635-042-0180	1-31-2008	Amend(T)	3-1-2008
635-042-0031(T)	8-26-2008	Suspend	10-1-2008	635-042-0180	3-2-2008	Amend(T)	4-1-2008
635-042-0060	9-18-2008	Amend(T)	11-1-2008	635-042-0180	5-12-2008	Amend(T)	6-1-2008
635-042-0060	9-24-2008	Amend(T)	11-1-2008	635-042-0180	6-4-2008	Amend(T)	7-1-2008
635-042-0060	10-8-2008	Amend(T)	11-1-2008	635-042-0180	8-1-2008	Amend(T)	9-1-2008
635-042-0060	10-15-2008	Amend(T)	11-1-2008	635-042-0180	9-9-2008	Amend(T)	10-1-2008
635-042-0060(T)	9-24-2008	Suspend	11-1-2008	635-042-0180(T)	3-2-2008	Suspend	4-1-2008
635-042-0060(T)	10-8-2008	Suspend	11-1-2008	635-042-0180(T)	5-12-2008	Suspend	6-1-2008
635-042-0060(T)	10-15-2008	Suspend	11-1-2008	635-042-0180(T)	6-4-2008	Suspend	7-1-2008
635-042-0110	5-12-2008	Amend(T)	4-1-2008	635-042-0180(T)	8-1-2008	Suspend	9-1-2008
635-042-0110	6-21-2008	Amend(T)	8-1-2008	635-042-0180(T)	9-9-2008	Suspend	10-1-2008
635-042-0110(T)	6-21-2008	Suspend	8-1-2008	635-043-0120	4-24-2008	Adopt	6-1-2008
635-042-0130	12-1-2007	Amend(T)	1-1-2008	635-045-0000	8-13-2008	Amend	9-1-2008
635-042-0130	1-1-2008	Amend(T)	2-1-2008	635-045-0002	5-28-2008	Amend	7-1-2008
635-042-0130	2-11-2008	Amend	3-1-2008	635-048-0005	1-1-2008	Amend	2-1-2008
635-042-0130(T)	1-1-2008	Suspend	2-1-2008	635-048-0010	1-1-2008	Amend	2-1-2008
635-042-0130(T)	2-11-2008	Repeal	3-1-2008	635-048-0030	1-1-2008	Amend	2-1-2008
635-042-0135	1-1-2008	Amend(T)	2-1-2008	635-049-0000	5-28-2008	Repeal	7-1-2008
635-042-0135	1-31-2008	Amend(T)	3-1-2008	635-049-0001	5-28-2008	Adopt	7-1-2008
635-042-0135	2-11-2008	Amend	3-1-2008	635-049-0005	5-28-2008	Adopt	7-1-2008
635-042-0135	2-21-2008	Amend(T)	4-1-2008	635-049-0010	5-28-2008	Repeal	7-1-2008
635-042-0135(T)	1-31-2008	Suspend	3-1-2008	635-049-0015	5-28-2008	Adopt	7-1-2008
635-042-0135(T)	2-11-2008	Repeal	3-1-2008	635-049-0020	5-28-2008	Repeal	7-1-2008
635-042-0145	1-31-2008	Amend(T)	3-1-2008	635-049-0025	5-28-2008	Adopt	7-1-2008
635-042-0145	3-2-2008	Amend(T)	4-1-2008	635-049-0030	5-28-2008	Repeal	7-1-2008
635-042-0145	3-30-2008	Amend(T)	5-1-2008	635-049-0035	5-28-2008	Adopt	7-1-2008
635-042-0145	5-12-2008	Amend(T)	6-1-2008	635-049-0040	5-28-2008	Repeal	7-1-2008
635-042-0145	6-4-2008	Amend(T)	7-1-2008	635-049-0045	5-28-2008	Adopt	7-1-2008
635-042-0145	8-1-2008	Amend(T)	9-1-2008	635-049-0050	5-28-2008	Repeal	7-1-2008
635-042-0145	9-9-2008	Amend(T)	10-1-2008	635-049-0055	5-28-2008	Adopt	7-1-2008
635-042-0145(T)	3-2-2008	Suspend	4-1-2008	635-049-0060	5-28-2008	Repeal	7-1-2008
635-042-0145(T)	3-30-2008	Suspend	5-1-2008	635-049-0070	5-28-2008	Repeal	7-1-2008
635-042-0145(T)	5-12-2008	Suspend	6-1-2008	635-049-0075	5-28-2008	Adopt	7-1-2008
635-042-0145(T)	6-4-2008	Suspend	7-1-2008	635-049-0080	5-28-2008	Repeal	7-1-2008
635-042-0145(T)	8-1-2008	Suspend	9-1-2008	635-049-0085	5-28-2008	Adopt	7-1-2008
635-042-0145(T)	9-9-2008	Suspend	10-1-2008	635-049-0090	5-28-2008	Amend	7-1-2008
635-042-0160	1-31-2008	Amend(T)	3-1-2008	635-049-0095	5-28-2008	Adopt	7-1-2008
635-042-0160	3-2-2008	Amend(T)	4-1-2008	635-049-0100	5-28-2008	Repeal	7-1-2008
635-042-0160	5-12-2008	Amend(T)	6-1-2008	635-049-0105	5-28-2008	Adopt	7-1-2008
635-042-0160	6-4-2008	Amend(T)	7-1-2008	635-049-0110	5-28-2008	Repeal	7-1-2008
635-042-0160	8-1-2008	Amend(T)	9-1-2008	635-049-0115	5-28-2008	Adopt	7-1-2008
635-042-0160	9-2-2008	Amend(T)	10-1-2008	635-049-0120	5-28-2008	Repeal	7-1-2008
635-042-0160	9-9-2008	Amend(T)	10-1-2008	635-049-0125	5-28-2008	Adopt	7-1-2008
635-042-0160(T)	3-2-2008	Suspend	4-1-2008	635-049-0130	5-28-2008	Repeal	7-1-2008
635-042-0160(T)	5-12-2008	Suspend	6-1-2008	635-049-0135	5-28-2008	Adopt	7-1-2008
635-042-0160(T)	6-4-2008	Suspend	7-1-2008	635-049-0140	5-28-2008	Repeal	7-1-2008
635-042-0160(T)	8-1-2008	Suspend	9-1-2008	635-049-0145	5-28-2008	Adopt	7-1-2008
635-042-0160(T)	9-2-2008	Suspend	10-1-2008	635-049-0160	5-28-2008	Repeal	7-1-2008
635-042-0160(T)	9-9-2008	Suspend	10-1-2008	635-049-0165	5-28-2008	Adopt	7-1-2008
635-042-0170	4-28-2008	Amend(T)	6-1-2008	635-049-0170	5-28-2008	Repeal	7-1-2008
635-042-0170	5-12-2008	Amend(T)	6-1-2008	635-049-0171	5-28-2008	Repeal	7-1-2008
635-042-0170	6-4-2008	Amend(T)	7-1-2008	635-049-0175	5-28-2008	Adopt	7-1-2008
635-042-0170	8-1-2008	Amend(T)	9-1-2008	635-049-0180	5-28-2008	Repeal	7-1-2008
635-042-0170	9-9-2008	Amend(T)	10-1-2008	635-049-0185	5-28-2008	Adopt	7-1-2008
635-042-0170(T)	5-12-2008	Suspend	6-1-2008	635-049-0190	5-28-2008	Repeal	7-1-2008
635-042-0170(T)	6-4-2008	Suspend	7-1-2008	635-049-0195	5-28-2008	Adopt	7-1-2008
635-042-0170(T)	8-1-2008	Suspend	9-1-2008	635-049-0200	5-28-2008	Amend	7-1-2008
635-042-0170(T)	9-9-2008	Suspend	10-1-2008	635-049-0205	5-28-2008	Adopt	7-1-2008

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635-049-0220	5-28-2008	Repeal	7-1-2008	635-070-0000	6-12-2008	Amend	7-1-2008
635-049-0225	5-28-2008	Adopt	7-1-2008	635-071-0000	6-12-2008	Amend	7-1-2008
635-049-0230	5-28-2008	Repeal	7-1-2008	635-073-0000	6-12-2008	Amend	7-1-2008
635-049-0240	5-28-2008	Repeal	7-1-2008	635-075-0003	10-14-2008	Adopt	11-1-2008
635-049-0245	5-28-2008	Adopt	7-1-2008	635-075-0005	10-14-2008	Amend	11-1-2008
635-049-0250	5-28-2008	Repeal	7-1-2008	635-079-0000	2-21-2008	Adopt	4-1-2008
635-049-0265	5-28-2008	Adopt	7-1-2008	635-079-0005	2-21-2008	Adopt	4-1-2008
635-049-0275	5-28-2008	Adopt	7-1-2008	635-079-0010	2-21-2008	Adopt	4-1-2008
635-049-0285	5-28-2008	Adopt	7-1-2008	635-200-0090	12-31-2007	Amend(T)	2-1-2008
635-049-0330	5-28-2008	Repeal	7-1-2008	635-200-0090	4-24-2008	Amend	6-1-2008
635-049-0340	5-28-2008	Repeal	7-1-2008	635-500-3890	7-28-2008	Adopt	9-1-2008
635-050-0045	7-25-2008	Amend	9-1-2008	635-500-3895	7-28-2008	Adopt	9-1-2008
635-050-0070	7-25-2008	Amend	9-1-2008	635-500-3900	7-28-2008	Adopt	9-1-2008
635-050-0080	7-25-2008	Amend	9-1-2008	635-500-3905	7-28-2008	Adopt	9-1-2008
635-050-0090	7-25-2008	Amend	9-1-2008	635-500-3910	7-28-2008	Adopt	9-1-2008
635-050-0100	7-25-2008	Amend	9-1-2008	635-600-0000	4-24-2008	Adopt	6-1-2008
635-050-0110	7-25-2008	Amend	9-1-2008	635-600-0005	4-24-2008	Adopt	6-1-2008
635-050-0120	7-25-2008	Amend	9-1-2008	635-600-0010	4-24-2008	Adopt	6-1-2008
635-050-0130	7-25-2008	Amend	9-1-2008	635-600-0015	4-24-2008	Adopt	6-1-2008
635-050-0140	7-25-2008	Amend	9-1-2008	635-600-0020	4-24-2008	Adopt	6-1-2008
635-050-0150	7-25-2008	Amend	9-1-2008	635-600-0025	4-24-2008	Adopt	6-1-2008
635-050-0170	7-25-2008	Amend	9-1-2008	635-600-0030	4-24-2008	Adopt	6-1-2008
635-050-0183	7-25-2008	Amend	9-1-2008	635-600-0035	4-24-2008	Adopt	6-1-2008
635-050-0189	7-25-2008	Amend	9-1-2008	635-600-0040	4-24-2008	Adopt	6-1-2008
635-050-0210	7-25-2008	Amend	9-1-2008	635-600-0050	4-24-2008	Adopt	6-1-2008
635-051-0000	8-13-2008	Amend	9-1-2008	635-600-0055	4-24-2008	Adopt	6-1-2008
635-051-0048	4-21-2008	Amend(T)	6-1-2008	635-600-0065	4-24-2008	Adopt	6-1-2008
635-051-0048	8-13-2008	Amend	9-1-2008	641-020-0010	3-22-2008	Adopt	3-1-2008
635-052-0000	8-13-2008	Amend	9-1-2008	641-020-0020	3-22-2008	Adopt	3-1-2008
635-053-0000	8-13-2008	Amend	9-1-2008	641-020-0030	3-22-2008	Adopt	3-1-2008
635-054-0000	8-13-2008	Amend	9-1-2008	642-020-0010	3-22-2008	Adopt	3-1-2008
635-055-0000	2-21-2008	Amend	4-1-2008	642-020-0020	3-22-2008	Adopt	3-1-2008
635-055-0000	2-29-2008	Amend	4-1-2008	642-020-0030	3-22-2008	Adopt	3-1-2008
635-055-0020	2-21-2008	Amend	4-1-2008	644-040-0010	2-15-2008	Adopt	3-1-2008
635-055-0020	2-29-2008	Amend	4-1-2008	644-040-0020	2-15-2008	Adopt	3-1-2008
635-055-0030	2-21-2008	Amend	4-1-2008	644-040-0030	2-15-2008	Adopt	3-1-2008
635-055-0030	2-29-2008	Amend	4-1-2008	646-040-0000	1-23-2008	Adopt	3-1-2008
635-055-0035	2-21-2008	Amend	4-1-2008	646-040-0010	1-23-2008	Adopt	3-1-2008
635-055-0035	2-29-2008	Amend	4-1-2008	646-040-0020	1-23-2008	Adopt	3-1-2008
635-055-0075	2-21-2008	Amend	4-1-2008	647-010-0010	6-1-2008	Amend	6-1-2008
635-055-0075	2-29-2008	Amend	4-1-2008	647-040-0000	4-1-2008	Adopt	4-1-2008
635-056-0000	9-19-2008	Amend	11-1-2008	647-040-0010	4-1-2008	Adopt	4-1-2008
635-056-0010	11-19-2007	Amend	1-1-2008	647-040-0020	4-1-2008	Adopt	4-1-2008
635-056-0020	11-19-2007	Amend	1-1-2008	655-040-0000	4-1-2008	Adopt	3-1-2008
635-056-0050	9-19-2008	Amend	11-1-2008	655-040-0010	4-1-2008	Adopt	3-1-2008
635-056-0070	5-28-2008	Amend(T)	7-1-2008	655-040-0020	4-1-2008	Adopt	3-1-2008
635-056-0070	9-19-2008	Amend	11-1-2008	657-010-0015	7-1-2008	Amend	7-1-2008
635-056-0075	5-28-2008	Amend(T)	7-1-2008	657-020-0010	3-22-2008	Adopt	3-1-2008
635-056-0075	9-19-2008	Amend	11-1-2008	657-020-0020	3-22-2008	Adopt	3-1-2008
635-057-0000	11-19-2007	Adopt	1-1-2008	657-020-0030	3-22-2008	Adopt	3-1-2008
635-060-0000	6-12-2008	Amend	7-1-2008	660-002-0010	12-10-2007	Amend(T)	1-1-2008
635-060-0000	8-13-2008	Amend	9-1-2008	660-002-0010	2-21-2008	Amend(T)	4-1-2008
635-060-0008	5-14-2008	Amend(T)	6-1-2008	660-002-0010	5-23-2008	Amend	7-1-2008
635-060-0023	12-1-2007	Amend	1-1-2008	660-002-0015	12-10-2007	Amend(T)	1-1-2008
635-060-0046	10-6-2008	Amend(T)	11-1-2008	660-002-0015	2-21-2008	Amend(T)	4-1-2008
635-067-0000	6-12-2008	Amend	7-1-2008	660-002-0015	5-23-2008	Amend	7-1-2008
635-068-0000	6-12-2008	Amend	7-1-2008	660-004-0010	4-18-2008	Amend	6-1-2008

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660-006-0005	4-18-2008	Amend	6-1-2008	660-041-0010	12-10-2007	Amend(T)	1-1-2008
660-006-0010	4-18-2008	Amend	6-1-2008	660-041-0010	2-21-2008	Amend(T)	4-1-2008
660-006-0026	4-18-2008	Amend	6-1-2008	660-041-0010	5-23-2008	Amend	7-1-2008
660-006-0055	4-18-2008	Amend	6-1-2008	660-041-0020	2-21-2008	Amend(T)	4-1-2008
660-007-0005	4-18-2008	Amend	6-1-2008	660-041-0020	5-23-2008	Amend	7-1-2008
660-008-0005	4-18-2008	Amend	6-1-2008	660-041-0030	12-10-2007	Amend(T)	1-1-2008
660-011-0060	2-13-2008	Amend	3-1-2008	660-041-0030	2-21-2008	Amend(T)	4-1-2008
660-011-0060	4-18-2008	Amend	6-1-2008	660-041-0030	5-23-2008	Amend	7-1-2008
660-015-0000	4-18-2008	Amend	6-1-2008	660-041-0040	12-10-2007	Amend(T)	1-1-2008
660-015-0005	4-18-2008	Amend	6-1-2008	660-041-0040	2-21-2008	Amend(T)	4-1-2008
660-015-0010	4-18-2008	Amend	6-1-2008	660-041-0040	5-23-2008	Amend	7-1-2008
660-018-0005	4-18-2008	Amend	6-1-2008	660-041-0050	12-10-2007	Suspend	1-1-2008
660-018-0010	4-18-2008	Amend	6-1-2008	660-041-0050	2-21-2008	Suspend	4-1-2008
660-018-0020	4-18-2008	Amend	6-1-2008	660-041-0050	5-23-2008	Repeal	7-1-2008
660-018-0021	4-18-2008	Amend	6-1-2008	660-041-0060	12-10-2007	Adopt(T)	1-1-2008
660-018-0022	4-18-2008	Amend	6-1-2008	660-041-0060	2-21-2008	Adopt(T)	4-1-2008
660-018-0025	4-18-2008	Amend	6-1-2008	660-041-0060	5-23-2008	Adopt	7-1-2008
660-018-0030	4-18-2008	Amend	6-1-2008	660-041-0070	12-10-2007	Adopt(T)	1-1-2008
660-018-0035	4-18-2008	Amend	6-1-2008	660-041-0070	2-21-2008	Adopt(T)	4-1-2008
660-018-0040	4-18-2008	Amend	6-1-2008	660-041-0070	5-23-2008	Adopt	7-1-2008
660-018-0045	4-18-2008	Amend	6-1-2008	660-041-0080	2-21-2008	Adopt(T)	4-1-2008
660-018-0050	4-18-2008	Amend	6-1-2008	660-041-0080	5-23-2008	Adopt	7-1-2008
660-018-0055	4-18-2008	Amend	6-1-2008	660-041-0090	2-21-2008	Adopt(T)	4-1-2008
660-018-0060	4-18-2008	Amend	6-1-2008	660-041-0090	5-23-2008	Adopt	7-1-2008
660-018-0085	4-18-2008	Amend	6-1-2008	660-041-0100	2-21-2008	Adopt(T)	4-1-2008
660-018-0140	4-18-2008	Amend	6-1-2008	660-041-0100	5-23-2008	Adopt	7-1-2008
660-018-0150	4-18-2008	Amend	6-1-2008	660-041-0110	5-23-2008	Adopt	7-1-2008
660-021-0010	2-13-2008	Amend	3-1-2008	660-041-0120	5-23-2008	Adopt	7-1-2008
660-021-0020	2-13-2008	Amend	3-1-2008	660-041-0130	5-23-2008	Adopt	7-1-2008
660-021-0030	2-13-2008	Amend	3-1-2008	660-041-0140	5-23-2008	Adopt	7-1-2008
660-021-0040	2-13-2008	Amend	3-1-2008	660-041-0150	5-23-2008	Adopt	7-1-2008
660-021-0050	2-13-2008	Amend	3-1-2008	660-041-0160	5-23-2008	Adopt	7-1-2008
660-021-0060	2-13-2008	Amend	3-1-2008	660-041-0500	12-10-2007	Adopt(T)	1-1-2008
660-021-0070	2-13-2008	Amend	3-1-2008	660-041-0500	2-21-2008	Adopt(T)	4-1-2008
660-021-0080	2-13-2008	Amend	3-1-2008	660-041-0500	5-23-2008	Adopt	7-1-2008
660-024-0030	4-18-2008	Amend	6-1-2008	660-041-0510	12-10-2007	Adopt(T)	1-1-2008
660-025-0040	2-13-2008	Amend	3-1-2008	660-041-0510	2-21-2008	Adopt(T)	4-1-2008
660-026-0000	4-18-2008	Repeal	6-1-2008	660-041-0510	5-23-2008	Adopt	7-1-2008
660-026-0010	4-18-2008	Repeal	6-1-2008	660-041-0520	12-10-2007	Adopt(T)	1-1-2008
660-026-0020	4-18-2008	Repeal	6-1-2008	660-041-0520	2-21-2008	Adopt(T)	4-1-2008
660-026-0030	4-18-2008	Repeal	6-1-2008	660-041-0520	5-23-2008	Adopt	7-1-2008
660-026-0040	4-18-2008	Repeal	6-1-2008	660-041-0530	12-10-2007	Adopt(T)	1-1-2008
660-027-0005	2-13-2008	Adopt	3-1-2008	660-041-0530	2-21-2008	Adopt(T)	4-1-2008
660-027-0010	2-13-2008	Adopt	3-1-2008	660-041-0530	5-23-2008	Adopt	7-1-2008
660-027-0020	2-13-2008	Adopt	3-1-2008	664-020-0010	4-1-2008	Adopt	3-1-2008
660-027-0030	2-13-2008	Adopt	3-1-2008	664-020-0020	4-1-2008	Adopt	3-1-2008
660-027-0040	2-13-2008	Adopt	3-1-2008	664-020-0030	4-1-2008	Adopt	3-1-2008
660-027-0050	2-13-2008	Adopt	3-1-2008	670-020-0010	3-22-2008	Adopt	3-1-2008
660-027-0060	2-13-2008	Adopt	3-1-2008	670-020-0020	3-22-2008	Adopt	3-1-2008
660-027-0070	2-13-2008	Adopt	3-1-2008	670-020-0030	3-22-2008	Adopt	3-1-2008
660-027-0080	2-13-2008	Adopt	3-1-2008	678-010-0030	7-16-2008	Amend	9-1-2008
660-033-0020	4-18-2008	Amend	6-1-2008	678-030-0000	1-11-2008	Adopt	2-1-2008
660-033-0030	4-18-2008	Amend	6-1-2008	678-030-0010	1-11-2008	Adopt	2-1-2008
660-033-0120	4-18-2008	Amend	6-1-2008	678-030-0020	1-11-2008	Adopt	2-1-2008
660-033-0130	4-18-2008	Amend	6-1-2008	678-030-0030	1-11-2008	Adopt	2-1-2008
660-041-0000	12-10-2007	Amend(T)	1-1-2008	679-030-0050	8-1-2008	Adopt	8-1-2008
660-041-0000	2-21-2008	Amend(T)	4-1-2008	690-200-0028	7-1-2008	Amend	8-1-2008

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690-210-0280	7-1-2008	Amend	8-1-2008	734-075-0010	9-11-2008	Amend	10-1-2008
690-215-0060	7-1-2008	Amend	8-1-2008	734-082-0015	5-19-2008	Amend	7-1-2008
690-215-0080	7-1-2008	Amend	8-1-2008	734-082-0040	5-19-2008	Amend	7-1-2008
690-215-0200	7-1-2008	Adopt	8-1-2008	735-010-0008	7-1-2008	Amend	8-1-2008
690-600-0000	6-6-2008	Adopt	7-1-2008	735-010-0045	12-24-2007	Amend	2-1-2008
690-600-0010	6-6-2008	Adopt	7-1-2008	735-010-0100	7-1-2008	Amend	8-1-2008
690-600-0020	6-6-2008	Adopt	7-1-2008	735-010-0130	2-4-2008	Amend(T)	3-1-2008
690-600-0030	6-6-2008	Adopt	7-1-2008	735-010-0130	7-1-2008	Amend	8-1-2008
690-600-0040	6-6-2008	Adopt	7-1-2008	735-010-0130	9-15-2008	Amend(T)	10-1-2008
690-600-0050	6-6-2008	Adopt	7-1-2008	735-016-0030	2-4-2008	Amend	3-1-2008
690-600-0060	6-6-2008	Adopt	7-1-2008	735-016-0040	2-4-2008	Amend	3-1-2008
690-600-0070	6-6-2008	Adopt	7-1-2008	735-016-0070	7-1-2008	Amend	8-1-2008
695-003-0010	3-25-2008	Adopt	5-1-2008	735-020-0075	11-30-2007	Adopt	1-1-2008
695-003-0020	3-25-2008	Adopt	5-1-2008	735-024-0070	1-1-2008	Amend(T)	2-1-2008
695-003-0030	3-25-2008	Adopt	5-1-2008	735-024-0070	6-23-2008	Amend	8-1-2008
695-003-0040	3-25-2008	Adopt	5-1-2008	735-024-0070(T)	6-23-2008	Repeal	8-1-2008
695-007-0010	5-27-2008	Amend(T)	7-1-2008	735-024-0080	1-1-2008	Amend(T)	2-1-2008
695-007-0020	5-27-2008	Amend(T)	7-1-2008	735-024-0080	6-23-2008	Amend	8-1-2008
695-007-0030	5-27-2008	Amend(T)	7-1-2008	735-024-0080(T)	6-23-2008	Repeal	8-1-2008
695-007-0040	5-27-2008	Amend(T)	7-1-2008	735-028-0100	3-21-2008	Amend	5-1-2008
731-001-0025	12-24-2007	Amend	2-1-2008	735-030-0300	1-1-2008	Adopt	2-1-2008
731-005-0450	1-24-2008	Amend(T)	3-1-2008	735-030-0310	1-1-2008	Adopt	2-1-2008
731-005-0450	5-19-2008	Amend	7-1-2008	735-030-0320	1-1-2008	Adopt	2-1-2008
731-005-0450(T)	5-19-2008	Repeal	7-1-2008	735-030-0330	1-1-2008	Adopt	2-1-2008
731-005-0550	12-24-2007	Amend(T)	2-1-2008	735-032-0020	1-1-2008	Amend(T)	2-1-2008
731-005-0550	5-19-2008	Amend	7-1-2008	735-032-0020	6-23-2008	Amend	8-1-2008
731-005-0550(T)	5-19-2008	Repeal	7-1-2008	735-032-0020(T)	6-23-2008	Repeal	8-1-2008
732-035-0010	4-24-2008	Adopt	6-1-2008	735-032-0030	8-26-2008	Amend	10-1-2008
732-035-0020	4-24-2008	Adopt	6-1-2008	735-032-0050	1-1-2008	Amend	2-1-2008
732-035-0030	4-24-2008	Adopt	6-1-2008	735-040-0040	1-1-2008	Amend(T)	2-1-2008
732-035-0040	4-24-2008	Adopt	6-1-2008	735-040-0040	6-23-2008	Amend	8-1-2008
732-035-0050	4-24-2008	Adopt	6-1-2008	735-040-0040(T)	6-23-2008	Repeal	8-1-2008
732-035-0060	4-24-2008	Adopt	6-1-2008	735-040-0050	1-1-2008	Amend(T)	2-1-2008
732-035-0070	4-24-2008	Adopt	6-1-2008	735-040-0050	6-23-2008	Repeal	8-1-2008
732-035-0080	4-24-2008	Adopt	6-1-2008	735-040-0080	1-1-2008	Amend(T)	2-1-2008
734-001-0025	4-24-2008	Amend	6-1-2008	735-040-0080	6-23-2008	Amend	8-1-2008
734-010-0230	1-24-2008	Amend(T)	3-1-2008	735-040-0080(T)	6-23-2008	Repeal	8-1-2008
734-010-0230	5-19-2008	Amend	7-1-2008	735-040-0090	1-1-2008	Amend(T)	2-1-2008
734-010-0230(T)	5-19-2008	Repeal	7-1-2008	735-040-0090	6-23-2008	Amend	8-1-2008
734-010-0260	1-24-2008	Amend(T)	3-1-2008	735-040-0090(T)	6-23-2008	Repeal	8-1-2008
734-010-0260	5-19-2008	Amend	7-1-2008	735-040-0100	1-1-2008	Amend(T)	2-1-2008
734-010-0260(T)	5-19-2008	Repeal	7-1-2008	735-040-0100	6-23-2008	Amend	8-1-2008
734-017-0005	7-28-2008	Amend	9-1-2008	735-040-0100(T)	6-23-2008	Repeal	8-1-2008
734-020-0147	8-26-2008	Amend	10-1-2008	735-046-0000	6-23-2008	Amend	8-1-2008
734-058-0010	8-26-2008	Adopt	10-1-2008	735-046-0000	9-11-2008	Amend	10-1-2008
734-058-0020	8-26-2008	Adopt	10-1-2008	735-046-0000(T)	6-23-2008	Repeal	8-1-2008
734-058-0030	8-26-2008	Adopt	10-1-2008	735-046-0010	1-1-2008	Amend(T)	2-1-2008
734-058-0040	8-26-2008	Adopt	10-1-2008	735-046-0010	6-23-2008	Amend	8-1-2008
734-058-0050	8-26-2008	Adopt	10-1-2008	735-046-0010	9-11-2008	Amend	10-1-2008
734-058-0060	8-26-2008	Adopt	10-1-2008	735-046-0010(T)	6-23-2008	Repeal	8-1-2008
734-058-0070	8-26-2008	Adopt	10-1-2008	735-046-0050	1-1-2008	Amend(T)	2-1-2008
734-058-0080	8-26-2008	Adopt	10-1-2008	735-046-0050	6-23-2008	Amend	8-1-2008
734-059-0020	12-24-2007	Adopt	2-1-2008	735-046-0050	9-11-2008	Amend	10-1-2008
734-059-0025	12-24-2007	Adopt	2-1-2008	735-046-0050(T)	6-23-2008	Repeal	8-1-2008
734-059-0030	12-24-2007	Adopt	2-1-2008	735-050-0000	2-4-2008	Amend	3-1-2008
734-059-0050	12-24-2007	Adopt	2-1-2008	735-050-0060	2-4-2008	Amend	3-1-2008
734-074-0010	5-19-2008	Amend	7-1-2008	735-050-0062	2-4-2008	Amend	3-1-2008

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735-060-0120	1-1-2008	Amend	2-1-2008	735-070-0020	7-1-2008	Amend	8-1-2008
735-062-0000	1-1-2008	Amend	2-1-2008	735-070-0043	8-26-2008	Adopt(T)	10-1-2008
735-062-0000	2-4-2008	Amend(T)	3-1-2008	735-070-0080	1-1-2008	Amend	1-1-2008
735-062-0000	7-1-2008	Am. & Ren.	8-1-2008	735-070-0170	7-23-2008	Amend	9-1-2008
735-062-0002	7-1-2008	Adopt	8-1-2008	735-070-0190	12-24-2007	Amend	2-1-2008
735-062-0005	2-4-2008	Amend(T)	3-1-2008	735-072-0035	1-1-2008	Amend	2-1-2008
735-062-0005	7-1-2008	Amend	8-1-2008	735-074-0080	1-1-2008	Amend	2-1-2008
735-062-0010	2-4-2008	Amend(T)	3-1-2008	735-074-0140	1-1-2008	Amend	2-1-2008
735-062-0010	7-1-2008	Amend	8-1-2008	735-074-0180	1-1-2008	Amend	2-1-2008
735-062-0014	9-15-2008	Adopt(T)	10-1-2008	735-074-0260	1-1-2008	Am. & Ren.	2-1-2008
735-062-0015	7-1-2008	Adopt	8-1-2008	735-074-0270	1-1-2008	Am. & Ren.	2-1-2008
735-062-0015	9-15-2008	Amend(T)	10-1-2008	735-074-0280	1-1-2008	Am. & Ren.	2-1-2008
735-062-0016	7-1-2008	Adopt	8-1-2008	735-074-0290	1-1-2008	Am. & Ren.	2-1-2008
735-062-0020	2-4-2008	Amend(T)	3-1-2008	735-075-0005	5-19-2008	Amend	7-1-2008
735-062-0020	7-1-2008	Amend	8-1-2008	735-076-0002	1-1-2008	Amend	2-1-2008
735-062-0020	9-15-2008	Amend(T)	10-1-2008	735-076-0005	2-22-2008	Amend(T)	4-1-2008
735-062-0021	2-4-2008	Adopt(T)	3-1-2008	735-076-0005(T)	5-19-2008	Repeal	7-1-2008
735-062-0021	7-1-2008	Repeal	8-1-2008	735-076-0007	1-1-2008	Amend	2-1-2008
735-062-0030	2-4-2008	Amend	3-1-2008	735-076-0018	1-1-2008	Amend	2-1-2008
735-062-0030	2-4-2008	Amend(T)	3-1-2008	735-076-0020	1-1-2008	Amend	2-1-2008
735-062-0030	7-1-2008	Amend	8-1-2008	735-076-0035	1-1-2008	Amend	2-1-2008
735-062-0032	7-1-2008	Adopt	8-1-2008	735-080-0000	9-11-2008	Amend	10-1-2008
735-062-0033	7-1-2008	Adopt	8-1-2008	735-080-0010	1-1-2008	Repeal	2-1-2008
735-062-0050	1-1-2008	Amend	2-1-2008	735-080-0020	1-1-2008	Amend	2-1-2008
735-062-0050	8-26-2008	Amend	10-1-2008	735-080-0030	1-1-2008	Repeal	2-1-2008
735-062-0073	1-1-2008	Amend	2-1-2008	735-080-0040	1-1-2008	Amend	2-1-2008
735-062-0090	1-1-2008	Amend	2-1-2008	735-080-0060	7-1-2008	Amend	8-1-2008
735-062-0090	2-4-2008	Amend(T)	3-1-2008	735-080-0070	7-1-2008	Amend	8-1-2008
735-062-0090	2-22-2008	Amend(T)	4-1-2008	735-080-0080	1-1-2008	Amend	2-1-2008
735-062-0090	4-24-2008	Amend	6-1-2008	735-090-0000	12-24-2007	Amend	2-1-2008
735-062-0090	7-1-2008	Amend	8-1-2008	735-090-0020	12-24-2007	Amend	2-1-2008
735-062-0090(T)	4-24-2008	Repeal	6-1-2008	735-090-0051	12-24-2007	Amend	2-1-2008
735-062-0092	10-1-2008	Amend	10-1-2008	735-090-0120	12-24-2007	Amend	2-1-2008
735-062-0095	10-1-2008	Repeal	10-1-2008	735-090-0130	12-24-2007	Amend	2-1-2008
735-062-0110	2-4-2008	Amend(T)	3-1-2008	735-152-0000	1-1-2008	Amend(T)	2-1-2008
735-062-0110	7-1-2008	Amend	8-1-2008	735-152-0000	6-23-2008	Amend	8-1-2008
735-062-0110	10-1-2008	Amend	10-1-2008	735-152-0000(T)	6-23-2008	Repeal	8-1-2008
735-062-0120	7-1-2008	Amend	8-1-2008	735-152-0040	1-1-2008	Amend(T)	2-1-2008
735-062-0125	7-1-2008	Adopt	8-1-2008	735-152-0040	6-23-2008	Amend	8-1-2008
735-062-0200	1-1-2008	Amend	2-1-2008	735-152-0040(T)	6-23-2008	Repeal	8-1-2008
735-062-0200	10-1-2008	Amend	10-1-2008	735-152-0050	1-1-2008	Amend(T)	2-1-2008
735-062-0220	7-1-2008	Adopt	8-1-2008	735-152-0050	6-23-2008	Amend	8-1-2008
735-062-0320	1-1-2008	Amend	2-1-2008	735-152-0050(T)	6-23-2008	Repeal	8-1-2008
735-062-0320	7-1-2008	Amend	8-1-2008	735-152-0060	1-1-2008	Amend(T)	2-1-2008
735-062-0330	1-1-2008	Amend	2-1-2008	735-152-0060	6-23-2008	Amend	8-1-2008
735-062-0380	1-1-2008	Amend	2-1-2008	735-152-0060(T)	6-23-2008	Repeal	8-1-2008
735-062-0390	1-1-2008	Adopt	2-1-2008	735-158-0000	11-30-2007	Amend	1-1-2008
735-064-0005	2-4-2008	Amend	3-1-2008	735-160-0003	7-23-2008	Amend	9-1-2008
735-064-0020	7-1-2008	Amend	8-1-2008	735-160-0115	12-24-2007	Amend	2-1-2008
735-064-0040	1-1-2008	Amend	2-1-2008	736-002-0010	2-15-2008	Amend	3-1-2008
735-064-0070	1-1-2008	Amend	1-1-2008	736-002-0020	2-15-2008	Amend	3-1-2008
735-064-0100	1-25-2008	Amend	3-1-2008	736-002-0030	2-15-2008	Amend	3-1-2008
735-064-0220	1-1-2008	Amend	2-1-2008	736-002-0032	2-15-2008	Adopt	3-1-2008
735-064-0230	1-25-2008	Amend	3-1-2008	736-002-0038	2-15-2008	Adopt	3-1-2008
735-070-0000	7-1-2008	Amend	8-1-2008	736-002-0040	2-15-2008	Repeal	3-1-2008
735-070-0004	7-1-2008	Amend	8-1-2008	736-002-0042	2-15-2008	Adopt	3-1-2008
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736-002-0058	2-15-2008	Adopt	3-1-2008	736-040-0073	5-15-2008	Amend	6-1-2008
736-002-0060	2-15-2008	Repeal	3-1-2008	736-040-0080	5-15-2008	Amend	6-1-2008
736-002-0070	2-15-2008	Amend	3-1-2008	736-040-0085	5-15-2008	Amend	6-1-2008
736-002-0080	2-15-2008	Repeal	3-1-2008	736-040-0090	5-15-2008	Amend	6-1-2008
736-002-0082	2-15-2008	Adopt	3-1-2008	736-050-0002	10-15-2008	Amend	11-1-2008
736-002-0090	2-15-2008	Repeal	3-1-2008	736-054-0005	2-15-2008	Amend	3-1-2008
736-002-0092	2-15-2008	Adopt	3-1-2008	736-054-0010	2-15-2008	Amend	3-1-2008
736-002-0100	2-15-2008	Repeal	3-1-2008	736-054-0015	2-15-2008	Amend	3-1-2008
736-002-0102	2-15-2008	Adopt	3-1-2008	736-054-0025	2-15-2008	Amend	3-1-2008
736-002-0150	2-15-2008	Adopt	3-1-2008	740-100-0010	4-1-2008	Amend	5-1-2008
736-002-0160	2-15-2008	Adopt	3-1-2008	740-100-0030	7-23-2008	Amend	9-1-2008
736-004-0005	10-15-2008	Amend	11-1-2008	740-100-0060	4-1-2008	Amend	5-1-2008
736-004-0010	10-15-2008	Amend	11-1-2008	740-100-0070	4-1-2008	Amend	5-1-2008
736-004-0015	10-15-2008	Amend	11-1-2008	740-100-0080	4-1-2008	Amend	5-1-2008
736-004-0020	10-15-2008	Amend	11-1-2008	740-100-0090	4-1-2008	Amend	5-1-2008
736-004-0025	10-15-2008	Amend	11-1-2008	740-100-0140	3-21-2008	Am. & Ren.	5-1-2008
736-004-0030	10-15-2008	Amend	11-1-2008	740-110-0010	4-1-2008	Amend	5-1-2008
736-004-0045	10-15-2008	Amend	11-1-2008	740-200-0010	7-1-2008	Amend	8-1-2008
736-004-0055	10-15-2008	Repeal	11-1-2008	740-200-0020	7-1-2008	Amend	8-1-2008
736-004-0060	10-15-2008	Amend	11-1-2008	740-200-0040	7-1-2008	Amend	8-1-2008
736-004-0062	10-15-2008	Amend	11-1-2008	740-300-0140	3-21-2008	Am. & Ren.	5-1-2008
736-004-0065	10-15-2008	Amend	11-1-2008	800-010-0015	2-1-2008	Amend	2-1-2008
736-004-0070	10-15-2008	Amend	11-1-2008	800-010-0017	2-1-2008	Amend	2-1-2008
736-004-0075	10-15-2008	Repeal	11-1-2008	800-010-0025	2-1-2008	Amend	2-1-2008
736-004-0080	10-15-2008	Amend	11-1-2008	800-010-0030	2-1-2008	Amend	2-1-2008
736-004-0085	10-15-2008	Amend	11-1-2008	800-010-0041	2-1-2008	Amend	2-1-2008
736-004-0090	10-15-2008	Adopt	11-1-2008	800-015-0005	2-1-2008	Amend	2-1-2008
736-004-0095	10-15-2008	Adopt	11-1-2008	800-015-0010	2-1-2008	Amend	2-1-2008
736-004-0100	10-15-2008	Adopt	11-1-2008	800-015-0015	2-1-2008	Adopt	2-1-2008
736-004-0105	10-15-2008	Adopt	11-1-2008	800-015-0030	2-1-2008	Amend	2-1-2008
736-004-0110	10-15-2008	Adopt	11-1-2008	800-020-0015	2-1-2008	Amend	2-1-2008
736-004-0115	10-15-2008	Adopt	11-1-2008	800-020-0020	2-1-2008	Amend	2-1-2008
736-006-0100	3-1-2008	Amend	3-1-2008	800-020-0022	2-1-2008	Amend	2-1-2008
736-006-0110	3-1-2008	Amend(T)	3-1-2008	800-020-0025	2-1-2008	Amend	2-1-2008
736-006-0110	5-15-2008	Amend	6-1-2008	800-020-0026	2-1-2008	Amend	2-1-2008
736-006-0115	3-1-2008	Amend	3-1-2008	800-020-0030	2-1-2008	Amend	2-1-2008
736-006-0125	3-1-2008	Amend	3-1-2008	800-020-0031	2-1-2008	Amend	2-1-2008
736-006-0140	3-1-2008	Amend	3-1-2008	800-020-0035	2-1-2008	Amend	2-1-2008
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736-009-0005	9-15-2008	Amend	10-1-2008	800-025-0023	2-1-2008	Amend	2-1-2008
736-009-0010	9-15-2008	Amend	10-1-2008	800-025-0025	2-1-2008	Amend	2-1-2008
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736-009-0020	9-15-2008	Adopt	10-1-2008	800-025-0060	2-1-2008	Amend	2-1-2008
736-009-0025	9-15-2008	Adopt	10-1-2008	800-025-0070	2-1-2008	Amend	2-1-2008
736-009-0030	9-15-2008	Adopt	10-1-2008	800-030-0025	2-1-2008	Amend	2-1-2008
736-040-0005	5-15-2008	Amend	6-1-2008	800-030-0050	2-1-2008	Amend	2-1-2008
736-040-0015	5-15-2008	Amend	6-1-2008	801-001-0035	1-1-2008	Amend	2-1-2008
736-040-0020	5-15-2008	Amend	6-1-2008	801-010-0340	1-1-2008	Amend	2-1-2008
736-040-0035	5-15-2008	Amend	6-1-2008	801-030-0010	1-1-2008	Amend	2-1-2008
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736-040-0046	5-15-2008	Amend	6-1-2008	804-022-0010	2-4-2008	Amend	3-1-2008
736-040-0056	5-15-2008	Amend	6-1-2008	804-025-0020	2-4-2008	Amend	3-1-2008
736-040-0070	5-15-2008	Amend	6-1-2008	804-027-0005	7-7-2008	Adopt	8-1-2008
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804-030-0020	3-20-2008	Amend	5-1-2008	808-003-0040	4-11-2008	Amend	5-1-2008
804-030-0035	2-4-2008	Am. & Ren.	3-1-2008	808-003-0045	1-1-2008	Amend	2-1-2008
804-035-0010	3-20-2008	Amend	5-1-2008	808-003-0045	1-1-2008	Amend	2-1-2008
804-040-0000	3-20-2008	Amend	5-1-2008	808-003-0045	9-5-2008	Amend	10-1-2008
804-050-0001	7-7-2008	Am. & Ren.	8-1-2008	808-003-0045	10-1-2008	Amend	11-1-2008
804-050-0001	7-7-2008	Am. & Ren.	8-1-2008	808-003-0060	1-1-2008	Amend	2-1-2008
804-050-0001	7-7-2008	Am. & Ren.	8-1-2008	808-003-0090	1-1-2008	Amend	2-1-2008
806-010-0010	2-28-2008	Amend	4-1-2008	808-003-0095	1-1-2008	Amend	2-1-2008
806-010-0015	2-28-2008	Repeal	4-1-2008	808-003-0100	1-1-2008	Amend	2-1-2008
806-010-0020	2-28-2008	Amend	4-1-2008	808-003-0105	1-1-2008	Amend	2-1-2008
806-010-0033	2-28-2008	Amend	4-1-2008	808-003-0110	1-1-2008	Amend	2-1-2008
806-010-0035	2-28-2008	Amend	4-1-2008	808-003-0110	10-1-2008	Amend	11-1-2008
806-010-0090	7-1-2008	Amend	4-1-2008	808-003-0112	1-1-2008	Amend	2-1-2008
806-010-0105	7-1-2008	Amend	4-1-2008	808-003-0125	1-1-2008	Amend	2-1-2008
806-010-0145	7-1-2008	Amend	4-1-2008	808-003-0125	6-2-2008	Amend	7-1-2008
808-001-0005	4-25-2008	Amend	6-1-2008	808-003-0130	1-1-2008	Amend	2-1-2008
808-001-0020	1-1-2008	Amend	2-1-2008	808-003-0130	1-1-2008	Amend	2-1-2008
808-001-0020	1-1-2008	Amend	2-1-2008	808-003-0130	4-11-2008	Amend	5-1-2008
808-001-0020	4-11-2008	Amend	5-1-2008	808-003-0130	10-1-2008	Amend	11-1-2008
808-001-0020	4-23-2008	Amend(T)	6-1-2008	808-003-0135	1-1-2008	Amend	2-1-2008
808-001-0020	10-1-2008	Amend	11-1-2008	808-003-018	1-1-2008	Amend	2-1-2008
808-002-0020	1-1-2008	Amend	2-1-2008	808-003-0200	1-1-2008	Amend	2-1-2008
808-002-0200	10-1-2008	Amend	11-1-2008	808-003-0220	1-1-2008	Amend	2-1-2008
808-002-0210	1-1-2008	Amend	2-1-2008	808-003-0225	1-1-2008	Amend	2-1-2008
808-002-0220	1-1-2008	Amend	2-1-2008	808-003-0230	1-1-2008	Amend	2-1-2008
808-002-0220	1-1-2008	Amend	2-1-2008	808-003-0230	1-1-2008	Amend	2-1-2008
808-002-0220	4-11-2008	Amend	5-1-2008	808-003-0230	4-11-2008	Amend	5-1-2008
808-002-0280	1-1-2008	Amend	2-1-2008	808-003-0235	1-1-2008	Amend	2-1-2008
808-002-0325	1-1-2008	Amend	2-1-2008	808-003-0255	1-1-2008	Amend	2-1-2008
808-002-0328	1-1-2008	Amend	2-1-2008	808-003-0440	1-1-2008	Amend	2-1-2008
808-002-0328	10-1-2008	Amend	11-1-2008	808-004-0120	1-1-2008	Amend	2-1-2008
808-002-0330	1-1-2008	Amend	2-1-2008	808-004-0120	4-11-2008	Amend	5-1-2008
808-002-0500	1-1-2008	Amend	2-1-2008	808-004-0250	1-1-2008	Amend	2-1-2008
808-002-0540	1-1-2008	Amend	2-1-2008	808-004-0320	1-1-2008	Amend	2-1-2008
808-002-0590	1-1-2008	Adopt	2-1-2008	808-004-0340	1-1-2008	Amend	2-1-2008
808-002-0623	6-2-2008	Adopt	7-1-2008	808-004-0340	1-1-2008	Amend	2-1-2008
808-002-0625	1-1-2008	Adopt	2-1-2008	808-004-0400	1-1-2008	Amend	2-1-2008
808-002-0665	1-1-2008	Amend	2-1-2008	808-004-0450	1-1-2008	Amend	2-1-2008
808-002-0734	6-2-2008	Amend	7-1-2008	808-004-0530	1-1-2008	Adopt	2-1-2008
808-002-0810	10-1-2008	Amend	11-1-2008	808-004-0540	1-1-2008	Amend	2-1-2008
808-002-0870	1-1-2008	Amend	2-1-2008	808-004-0600	1-1-2008	Amend	2-1-2008
808-002-0900	1-1-2008	Amend	2-1-2008	808-005-0020	1-1-2008	Amend	2-1-2008
808-002-0900	10-1-2008	Repeal	11-1-2008	808-005-0020	1-1-2008	Amend	2-1-2008
808-002-0920	1-1-2008	Amend	2-1-2008	808-005-0020	4-11-2008	Amend	5-1-2008
808-003-0010	1-1-2008	Amend	2-1-2008	808-009-0340	8-8-2008	Amend(T)	9-1-2008
808-003-0015	1-1-2008	Amend	2-1-2008	808-009-0360	1-14-2008	Suspend	2-1-2008
808-003-0015	1-1-2008	Amend	2-1-2008	808-009-0360	3-7-2008	Repeal	4-1-2008
808-003-0015	4-11-2008	Amend	5-1-2008	808-030-0010	1-1-2008	Adopt	2-1-2008
808-003-0018	4-11-2008	Amend	5-1-2008	808-030-0010	6-2-2008	Amend	7-1-2008
808-003-0018	10-1-2008	Amend	11-1-2008	808-030-0020	1-1-2008	Adopt	2-1-2008
808-003-0020	1-1-2008	Amend	2-1-2008	808-030-0030	1-1-2008	Adopt	2-1-2008
808-003-0030	1-1-2008	Amend	2-1-2008	808-030-0040	1-1-2008	Adopt	2-1-2008
808-003-0030	6-2-2008	Amend	7-1-2008	808-030-0050	1-1-2008	Adopt	2-1-2008
808-003-0035	1-1-2008	Amend	2-1-2008	808-030-0060	1-1-2008	Adopt	2-1-2008
808-003-0035	1-1-2008	Amend	2-1-2008	808-030-0070	1-1-2008	Adopt	2-1-2008
808-003-0035	4-11-2008	Amend	5-1-2008	808-040-0010	1-1-2008	Adopt	2-1-2008

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808-040-0025	1-1-2008	Adopt	2-1-2008	812-002-0530	7-1-2008	Amend	7-1-2008
808-040-0030	1-1-2008	Adopt	2-1-2008	812-002-0533	7-1-2008	Amend	7-1-2008
808-040-0040	1-1-2008	Adopt	2-1-2008	812-002-0537	7-1-2008	Amend	7-1-2008
808-040-0050	1-1-2008	Adopt	2-1-2008	812-002-0580	1-1-2008	Amend	1-1-2008
808-040-0060	1-1-2008	Adopt	2-1-2008	812-002-0630	1-1-2008	Adopt	1-1-2008
808-040-0070	1-1-2008	Adopt	2-1-2008	812-002-0630	7-1-2008	Amend	7-1-2008
808-040-0080	1-1-2008	Adopt	2-1-2008	812-002-0635	1-1-2008	Adopt	1-1-2008
809-030-0025	3-20-2008	Amend	5-1-2008	812-002-0635	7-1-2008	Amend	7-1-2008
811-001-0005	1-31-2008	Amend	1-1-2008	812-002-0640	1-1-2008	Amend	1-1-2008
811-010-0085	11-30-2007	Amend	1-1-2008	812-002-0640	7-1-2008	Amend	7-1-2008
811-010-0086	11-30-2007	Amend	1-1-2008	812-002-0670	7-1-2008	Amend	7-1-2008
811-010-0090	11-30-2007	Amend	1-1-2008	812-002-0673	7-1-2008	Amend	7-1-2008
811-010-0093	11-30-2007	Amend	1-1-2008	812-002-0675	7-1-2008	Amend	7-1-2008
811-010-0110	10-9-2008	Amend	11-1-2008	812-002-0760	1-1-2008	Amend	1-1-2008
811-015-0010	11-30-2007	Amend	1-1-2008	812-002-0760	7-1-2008	Amend	7-1-2008
811-015-0025	11-30-2007	Amend	1-1-2008	812-002-0780	7-1-2008	Amend	7-1-2008
811-021-0005	11-30-2007	Amend	1-1-2008	812-002-0840	1-1-2008	Repeal	1-1-2008
811-030-0020	5-29-2008	Amend	7-1-2008	812-003-0110	7-1-2008	Amend	7-1-2008
812-001-0100	7-1-2008	Amend	7-1-2008	812-003-0120	7-1-2008	Amend	7-1-2008
812-001-0120	5-1-2008	Amend	6-1-2008	812-003-0130	7-1-2008	Amend	4-1-2008
812-001-0140	7-1-2008	Amend	7-1-2008	812-003-0131	7-1-2008	Adopt	4-1-2008
812-001-0160	5-1-2008	Amend	6-1-2008	812-003-0140	1-10-2008	Amend(T)	2-1-2008
812-001-0160	8-1-2008	Amend(T)	9-1-2008	812-003-0140	7-1-2008	Amend	4-1-2008
812-001-0160	10-1-2008	Amend	11-1-2008	812-003-0150	1-1-2008	Amend	1-1-2008
812-001-0160(T)	10-1-2008	Repeal	11-1-2008	812-003-0150	7-1-2008	Amend	8-1-2008
812-001-0200	1-1-2008	Amend	1-1-2008	812-003-0152	7-1-2008	Adopt	4-1-2008
812-001-0200	1-2-2008	Amend(T)	2-1-2008	812-003-0152	7-1-2008	Amend	8-1-2008
812-001-0200	5-1-2008	Amend	6-1-2008	812-003-0153	7-1-2008	Adopt	4-1-2008
812-001-0200	10-1-2008	Amend	11-1-2008	812-003-0153	7-1-2008	Amend	8-1-2008
812-001-0200(T)	5-1-2008	Repeal	6-1-2008	812-003-0155	1-1-2008	Adopt	1-1-2008
812-001-0240	7-1-2008	Adopt	8-1-2008	812-003-0155	7-1-2008	Amend	4-1-2008
812-001-0240	10-1-2008	Am. & Ren.	11-1-2008	812-003-0160	1-1-2008	Amend	1-1-2008
812-001-0300	10-1-2008	Renumber	11-1-2008	812-003-0160	7-1-2008	Amend	7-1-2008
812-001-0305	10-1-2008	Am. & Ren.	11-1-2008	812-003-0170	1-1-2008	Amend	1-1-2008
812-001-0310	10-1-2008	Renumber	11-1-2008	812-003-0170	7-1-2008	Amend	4-1-2008
812-001-0500	7-1-2008	Amend	7-1-2008	812-003-0171	7-1-2008	Adopt	4-1-2008
812-002-0011	7-1-2008	Amend	7-1-2008	812-003-0175	1-1-2008	Amend	1-1-2008
812-002-0040	7-1-2008	Amend	7-1-2008	812-003-0175	7-1-2008	Amend	4-1-2008
812-002-0140	1-1-2008	Amend	1-1-2008	812-003-0175	7-1-2008	Amend	8-1-2008
812-002-0140	7-1-2008	Amend	7-1-2008	812-003-0180	1-1-2008	Amend	1-1-2008
812-002-0143	1-1-2008	Amend	1-1-2008	812-003-0180	7-1-2008	Amend	7-1-2008
812-002-0143	7-1-2008	Amend	7-1-2008	812-003-0190	1-1-2008	Amend	1-1-2008
812-002-0160	7-1-2008	Amend	7-1-2008	812-003-0190	7-1-2008	Amend	7-1-2008
812-002-0170	1-1-2008	Adopt	1-1-2008	812-003-0200	1-1-2008	Amend	1-1-2008
812-002-0180	7-1-2008	Amend	7-1-2008	812-003-0200	7-1-2008	Amend	4-1-2008
812-002-0190	7-1-2008	Amend	7-1-2008	812-003-0210	7-1-2008	Amend	7-1-2008
812-002-0200	7-1-2008	Amend	7-1-2008	812-003-0220	7-1-2008	Amend	4-1-2008
812-002-0260	7-1-2008	Amend	7-1-2008	812-003-0221	7-1-2008	Adopt	4-1-2008
812-002-0265	1-1-2008	Adopt	1-1-2008	812-003-0230	7-1-2008	Amend	4-1-2008
812-002-0280	7-1-2008	Amend	7-1-2008	812-003-0240	1-1-2008	Amend	1-1-2008
812-002-0320	7-1-2008	Amend	4-1-2008	812-003-0240	7-1-2008	Amend	7-1-2008
812-002-0345	7-1-2008	Amend	7-1-2008	812-003-0250	1-1-2008	Amend	1-1-2008
812-002-0380	7-1-2008	Amend	4-1-2008	812-003-0250	7-1-2008	Amend	7-1-2008
812-002-0420	1-1-2008	Amend	1-1-2008	812-003-0260	1-1-2008	Amend	1-1-2008
812-002-0420	7-1-2008	Amend	7-1-2008	812-003-0260	3-24-2008	Amend	5-1-2008
812-002-0440	7-1-2008	Amend	7-1-2008	812-003-0260	7-1-2008	Amend	4-1-2008
812-002-0443	7-1-2008	Amend	7-1-2008	812-003-0260	7-1-2008	Amend	6-1-2008

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812-003-0260	10-1-2008	Amend	11-1-2008	812-005-0160	7-1-2008	Amend	7-1-2008
812-003-0270	1-10-2008	Amend(T)	2-1-2008	812-005-0170	7-1-2008	Amend	7-1-2008
812-003-0270	7-1-2008	Amend	4-1-2008	812-005-0200	1-1-2008	Amend	1-1-2008
812-003-0280	1-1-2008	Amend	1-1-2008	812-005-0200	7-1-2008	Amend	7-1-2008
812-003-0280	7-1-2008	Amend	4-1-2008	812-005-0210	1-1-2008	Amend	1-1-2008
812-003-0290	1-1-2008	Amend	1-1-2008	812-005-0210	7-1-2008	Amend	7-1-2008
812-003-0290	7-1-2008	Amend	4-1-2008	812-005-0210	10-1-2008	Amend	11-1-2008
812-003-0300	1-1-2008	Amend	1-1-2008	812-005-0250	1-1-2008	Amend	1-1-2008
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812-003-0310	1-1-2008	Amend	1-1-2008	812-005-0270	1-1-2008	Adopt	1-1-2008
812-003-0310	7-1-2008	Amend	7-1-2008	812-005-0270	7-1-2008	Amend	4-1-2008
812-003-0320	7-1-2008	Amend	7-1-2008	812-005-0280	7-1-2008	Adopt	8-1-2008
812-003-0330	7-1-2008	Amend	7-1-2008	812-005-0500	7-1-2008	Amend	8-1-2008
812-003-0340	7-1-2008	Amend	4-1-2008	812-005-0800	1-2-2008	Amend(T)	2-1-2008
812-003-0350	7-1-2008	Amend	7-1-2008	812-005-0800	7-1-2008	Amend	4-1-2008
812-003-0360	7-1-2008	Amend	4-1-2008	812-005-0800	7-1-2008	Amend	8-1-2008
812-003-0370	7-1-2008	Amend	7-1-2008	812-005-0800	10-1-2008	Amend	11-1-2008
812-003-0380	1-1-2008	Amend	1-1-2008	812-006-0100	7-1-2008	Amend	7-1-2008
812-003-0380	7-1-2008	Amend	7-1-2008	812-006-0150	7-1-2008	Amend	7-1-2008
812-003-0390	7-1-2008	Amend	7-1-2008	812-006-0200	7-1-2008	Amend	7-1-2008
812-003-0400	1-1-2008	Amend	1-1-2008	812-006-0250	7-1-2008	Amend	7-1-2008
812-003-0400	7-1-2008	Amend	7-1-2008	812-006-0300	7-1-2008	Amend	7-1-2008
812-003-0410	7-1-2008	Amend	7-1-2008	812-006-0350	7-1-2008	Amend	7-1-2008
812-003-0420	7-1-2008	Amend	4-1-2008	812-006-0400	7-1-2008	Amend	7-1-2008
812-003-0430	7-1-2008	Amend	7-1-2008	812-006-0450	7-1-2008	Amend	8-1-2008
812-003-0440	7-1-2008	Amend	4-1-2008	812-007-0040	7-1-2008	Amend	4-1-2008
812-003-0450	7-1-2008	Amend	4-1-2008	812-008-0030	7-1-2008	Amend	4-1-2008
812-004-0110	7-1-2008	Amend	7-1-2008	812-008-0040	1-1-2008	Amend	1-1-2008
812-004-0110	7-1-2008	Amend	8-1-2008	812-008-0040	7-1-2008	Amend	4-1-2008
812-004-0120	7-1-2008	Amend	7-1-2008	812-008-0060	1-1-2008	Amend	1-1-2008
812-004-0210	7-1-2008	Amend	7-1-2008	812-008-0070	1-1-2008	Amend	1-1-2008
812-004-0240	1-1-2008	Amend	1-1-2008	812-008-0110	1-1-2008	Amend	1-1-2008
812-004-0240	7-1-2008	Amend	7-1-2008	812-008-0201	7-1-2008	Amend	8-1-2008
812-004-0250	1-1-2008	Amend	1-1-2008	812-009-0020	7-1-2008	Amend	7-1-2008
812-004-0250	7-1-2008	Amend	7-1-2008	812-009-0050	7-1-2008	Amend	7-1-2008
812-004-0260	1-1-2008	Amend	1-1-2008	812-009-0070	7-1-2008	Amend	7-1-2008
812-004-0260	7-1-2008	Amend	8-1-2008	812-009-0090	7-1-2008	Amend	7-1-2008
812-004-0300	7-1-2008	Amend	7-1-2008	812-009-0140	1-1-2008	Amend	1-1-2008
812-004-0320	7-1-2008	Amend	8-1-2008	812-009-0140	7-1-2008	Amend	7-1-2008
812-004-0340	7-1-2008	Amend	7-1-2008	812-009-0160	7-1-2008	Amend	7-1-2008
812-004-0400	7-1-2008	Amend	7-1-2008	812-009-0200	7-1-2008	Amend	7-1-2008
812-004-0440	7-1-2008	Amend	7-1-2008	812-009-0220	7-1-2008	Amend	7-1-2008
812-004-0470	7-1-2008	Amend	7-1-2008	812-009-0320	7-1-2008	Amend	7-1-2008
812-004-0520	7-1-2008	Amend	7-1-2008	812-009-0340	7-1-2008	Amend	7-1-2008
812-004-0535	7-1-2008	Amend	7-1-2008	812-009-0400	5-1-2008	Amend	6-1-2008
812-004-0540	7-1-2008	Amend	7-1-2008	812-009-0420	5-1-2008	Amend	6-1-2008
812-004-0550	7-1-2008	Amend	7-1-2008	812-009-0430	7-1-2008	Amend	7-1-2008
812-004-0550	7-1-2008	Amend	8-1-2008	812-009-0435	5-1-2008	Adopt	6-1-2008
812-004-0560	1-1-2008	Amend	1-1-2008	812-010-0020	7-1-2008	Amend	7-1-2008
812-004-0560	7-1-2008	Amend	7-1-2008	812-010-0060	7-1-2008	Amend	7-1-2008
812-004-0590	1-1-2008	Amend	1-1-2008	812-010-0080	7-1-2008	Amend	7-1-2008
812-004-0590	7-1-2008	Amend	7-1-2008	812-010-0090	7-1-2008	Amend	7-1-2008
812-004-0600	1-1-2008	Amend	1-1-2008	812-010-0100	7-1-2008	Amend	7-1-2008
812-004-0600	7-1-2008	Amend	4-1-2008	812-010-0120	7-1-2008	Amend	7-1-2008
812-004-0600	7-1-2008	Amend	8-1-2008	812-010-0160	7-1-2008	Amend	7-1-2008
812-005-0100	7-1-2008	Amend	7-1-2008	812-010-0400	7-1-2008	Amend	7-1-2008
812-005-0130	7-1-2008	Amend	8-1-2008	812-010-0420	1-1-2008	Amend	1-1-2008

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812-010-0470	1-1-2008	Amend	1-1-2008	813-220-0060	3-31-2008	Amend	5-1-2008
812-010-0470	7-1-2008	Amend	7-1-2008	813-250-0000	4-11-2008	Amend	5-1-2008
812-012-0110	1-1-2008	Adopt	1-1-2008	813-250-0010	4-11-2008	Amend	5-1-2008
812-012-0110	7-1-2008	Amend	7-1-2008	813-250-0020	4-11-2008	Amend	5-1-2008
812-012-0130	1-1-2008	Adopt	1-1-2008	813-250-0030	4-11-2008	Amend	5-1-2008
812-012-0130	1-18-2008	Amend(T)	3-1-2008	813-250-0040	4-11-2008	Amend	5-1-2008
812-012-0130	5-1-2008	Amend	6-1-2008	813-300-0010	3-18-2008	Amend	5-1-2008
812-012-0130(T)	5-1-2008	Repeal	6-1-2008	813-300-0010(T)	3-18-2008	Repeal	5-1-2008
813-110-0005	4-11-2008	Amend	5-1-2008	813-300-0020	3-18-2008	Amend	5-1-2008
813-110-0005(T)	4-11-2008	Repeal	5-1-2008	813-300-0020(T)	3-18-2008	Repeal	5-1-2008
813-110-0010	4-11-2008	Amend	5-1-2008	813-300-0030	3-18-2008	Amend	5-1-2008
813-110-0010(T)	4-11-2008	Repeal	5-1-2008	813-300-0030(T)	3-18-2008	Repeal	5-1-2008
813-110-0013	4-11-2008	Adopt	5-1-2008	813-300-0060	3-18-2008	Amend	5-1-2008
813-110-0013(T)	4-11-2008	Repeal	5-1-2008	813-300-0060(T)	3-18-2008	Repeal	5-1-2008
813-110-0015	4-11-2008	Amend	5-1-2008	813-300-0080	3-18-2008	Amend	5-1-2008
813-110-0015(T)	4-11-2008	Repeal	5-1-2008	813-300-0080(T)	3-18-2008	Repeal	5-1-2008
813-110-0020	4-11-2008	Amend	5-1-2008	813-300-0100	3-18-2008	Amend	5-1-2008
813-110-0020(T)	4-11-2008	Repeal	5-1-2008	813-300-0100(T)	3-18-2008	Repeal	5-1-2008
813-110-0021	4-11-2008	Amend	5-1-2008	813-300-0120	3-18-2008	Amend	5-1-2008
813-110-0021(T)	4-11-2008	Repeal	5-1-2008	813-300-0120(T)	3-18-2008	Repeal	5-1-2008
813-110-0022	4-11-2008	Amend	5-1-2008	817-010-0065	6-1-2008	Amend	7-1-2008
813-110-0022(T)	4-11-2008	Repeal	5-1-2008	817-015-0050	6-1-2008	Amend	7-1-2008
813-110-0025	4-11-2008	Amend	5-1-2008	817-015-0065	6-1-2008	Amend	7-1-2008
813-110-0025(T)	4-11-2008	Repeal	5-1-2008	817-015-0070	6-1-2008	Adopt	7-1-2008
813-110-0030	4-11-2008	Amend	5-1-2008	817-030-0020	10-1-2008	Amend	10-1-2008
813-110-0030(T)	4-11-2008	Repeal	5-1-2008	817-035-0010	10-1-2008	Amend	10-1-2008
813-110-0035	4-11-2008	Amend	5-1-2008	817-035-0050	10-1-2008	Amend	10-1-2008
813-110-0035(T)	4-11-2008	Repeal	5-1-2008	817-040-0003	10-1-2008	Amend	10-1-2008
813-120-0001	1-28-2008	Amend	3-1-2008	818-001-0087	11-30-2007	Amend	1-1-2008
813-120-0010	1-28-2008	Amend	3-1-2008	818-012-0030	11-30-2007	Amend	1-1-2008
813-120-0020	1-28-2008	Amend	3-1-2008	818-021-0060	11-30-2007	Amend	1-1-2008
813-120-0030	1-28-2008	Am. & Ren.	3-1-2008	818-021-0070	11-30-2007	Amend	1-1-2008
813-120-0040	1-28-2008	Amend	3-1-2008	818-035-0030	11-30-2007	Amend	1-1-2008
813-120-0050	1-28-2008	Amend	3-1-2008	818-035-0040	11-30-2007	Amend	1-1-2008
813-120-0060	1-28-2008	Amend	3-1-2008	818-035-0065	11-30-2007	Amend	1-1-2008
813-120-0070	1-28-2008	Amend	3-1-2008	818-042-0040	11-30-2007	Amend	1-1-2008
813-120-0080	1-28-2008	Amend	3-1-2008	818-042-0060	11-30-2007	Amend	1-1-2008
813-120-0090	1-28-2008	Amend	3-1-2008	818-042-0095	11-30-2007	Adopt	1-1-2008
813-120-0100	1-28-2008	Am. & Ren.	3-1-2008	820-010-0010	7-9-2008	Amend	8-1-2008
813-120-0110	1-28-2008	Amend	3-1-2008	820-010-0225	7-9-2008	Amend	8-1-2008
813-120-0120	1-28-2008	Amend	3-1-2008	820-010-0226	7-9-2008	Amend	8-1-2008
813-120-0130	1-28-2008	Amend	3-1-2008	820-010-0236	3-12-2008	Adopt	4-1-2008
813-120-0140	1-28-2008	Amend	3-1-2008	820-010-0300	3-12-2008	Amend	4-1-2008
813-140-0010	12-18-2007	Amend(T)	2-1-2008	820-010-0305	3-12-2008	Amend	4-1-2008
813-140-0010	6-23-2008	Amend	8-1-2008	820-010-0325	3-12-2008	Amend	4-1-2008
813-140-0050	12-18-2007	Amend(T)	2-1-2008	820-010-0415	3-12-2008	Amend	4-1-2008
813-140-0050	6-23-2008	Amend	8-1-2008	820-010-0425	3-12-2008	Amend	4-1-2008
813-140-0090	12-18-2007	Amend(T)	2-1-2008	820-010-0427	3-12-2008	Amend	4-1-2008
813-140-0090	6-23-2008	Amend	8-1-2008	820-010-0440	7-9-2008	Amend	8-1-2008
813-140-0095	12-18-2007	Adopt(T)	2-1-2008	820-010-0450	3-12-2008	Amend	4-1-2008
813-140-0096	6-23-2008	Adopt	8-1-2008	820-010-0450	7-9-2008	Amend	8-1-2008
813-220-0001	3-31-2008	Amend	5-1-2008	820-010-0465	7-9-2008	Amend	8-1-2008
813-220-0005	3-31-2008	Amend	5-1-2008	820-010-0520	7-9-2008	Amend	8-1-2008
813-220-0010	3-31-2008	Amend	5-1-2008	820-010-0605	3-12-2008	Amend	4-1-2008
813-220-0015	3-31-2008	Amend	5-1-2008	820-010-0620	7-9-2008	Amend	8-1-2008
813-220-0020	3-31-2008	Amend	5-1-2008	820-015-0010	7-9-2008	Amend	8-1-2008

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833-025-0050	6-1-2008	Amend(T)	7-1-2008	836-051-0915	8-15-2008	Adopt	9-1-2008
833-025-0060	6-1-2008	Amend(T)	7-1-2008	836-051-0920	8-15-2008	Adopt	9-1-2008
833-060-0001	6-1-2008	Am. & Ren.(T)	7-1-2008	836-051-0925	8-15-2008	Adopt	9-1-2008
833-060-0001	6-1-2008	Am. & Ren.(T)	7-1-2008	836-052-0500	1-1-2008	Amend	1-1-2008
833-060-0001	6-1-2008	Am. & Ren.(T)	7-1-2008	836-052-0508	1-1-2008	Adopt	1-1-2008
833-060-0001	6-1-2008	Am. & Ren.(T)	7-1-2008	836-052-0516	1-1-2008	Amend	1-1-2008
833-060-0001	6-1-2008	Am. & Ren.(T)	7-1-2008	836-052-0526	1-1-2008	Amend	1-1-2008
833-060-0001	6-1-2008	Am. & Ren.(T)	7-1-2008	836-052-0531	1-1-2008	Adopt	1-1-2008
833-060-0001	6-1-2008	Am. & Ren.(T)	7-1-2008	836-052-0546	1-1-2008	Amend	1-1-2008
834-010-0030	4-9-2008	Amend	5-1-2008	836-052-0556	1-1-2008	Amend	1-1-2008
836-009-0007	12-11-2007	Amend(T)	1-1-2008	836-052-0566	1-1-2008	Amend	1-1-2008
836-009-0007	6-2-2008	Amend	7-1-2008	836-052-0576	1-1-2008	Amend	1-1-2008
836-011-0100	7-1-2008	Amend	8-1-2008	836-052-0616	1-1-2008	Amend	1-1-2008
836-011-0100	7-29-2008	Amend	9-1-2008	836-052-0626	1-1-2008	Amend	1-1-2008
836-011-0110	7-1-2008	Amend	8-1-2008	836-052-0636	1-1-2008	Amend	1-1-2008
836-011-0110	7-29-2008	Amend	9-1-2008	836-052-0639	1-1-2008	Adopt	1-1-2008
836-011-0120	7-1-2008	Amend	8-1-2008	836-052-0656	1-1-2008	Amend	1-1-2008
836-011-0120	7-29-2008	Amend	9-1-2008	836-052-0666	1-1-2008	Amend	1-1-2008
836-011-0130	7-1-2008	Amend	8-1-2008	836-052-0676	1-1-2008	Amend	1-1-2008
836-011-0130	7-29-2008	Amend	9-1-2008	836-052-0696	1-1-2008	Amend	1-1-2008
836-011-0140	7-1-2008	Amend	8-1-2008	836-052-0700	1-1-2008	Am. & Ren.	1-1-2008
836-011-0140	7-29-2008	Amend	9-1-2008	836-052-0706	1-1-2008	Amend	1-1-2008
836-011-0150	7-1-2008	Amend	8-1-2008	836-052-0726	1-1-2008	Amend	1-1-2008
836-011-0150	7-29-2008	Amend	9-1-2008	836-052-0736	1-1-2008	Amend	1-1-2008
836-011-0160	7-1-2008	Amend	8-1-2008	836-052-0738	1-1-2008	Adopt	1-1-2008
836-011-0160	7-29-2008	Amend	9-1-2008	836-052-0740	1-1-2008	Adopt	1-1-2008
836-011-0180	7-1-2008	Amend	8-1-2008	836-052-0746	1-1-2008	Amend	1-1-2008
836-011-0180	7-29-2008	Amend	9-1-2008	836-052-0756	1-1-2008	Amend	1-1-2008
836-011-0190	7-1-2008	Amend	8-1-2008	836-052-0766	1-1-2008	Amend	1-1-2008
836-011-0190	7-29-2008	Amend	9-1-2008	836-052-0776	1-1-2008	Amend	1-1-2008
836-011-0200	7-1-2008	Amend	8-1-2008	836-052-0786	1-1-2008	Amend	1-1-2008
836-011-0200	7-29-2008	Amend	9-1-2008	836-052-1000	1-1-2008	Adopt	2-1-2008
836-011-0210	7-1-2008	Amend	8-1-2008	836-053-0007	4-18-2008	Adopt	6-1-2008
836-011-0210	7-29-2008	Amend	9-1-2008	836-053-0016	2-11-2008	Repeal	3-1-2008
836-011-0220	7-1-2008	Amend	8-1-2008	836-053-0021	2-11-2008	Amend	3-1-2008
836-011-0220	7-29-2008	Amend	9-1-2008	836-053-0026	2-11-2008	Repeal	3-1-2008
836-011-0223	7-1-2008	Adopt	8-1-2008	836-053-0030	2-11-2008	Amend	3-1-2008
836-011-0223	7-29-2008	Adopt	9-1-2008	836-053-0040	2-11-2008	Amend	3-1-2008
836-011-0225	7-1-2008	Adopt	8-1-2008	836-053-0050	2-11-2008	Amend	3-1-2008
836-011-0225	7-29-2008	Adopt	9-1-2008	836-053-0060	2-11-2008	Amend	3-1-2008
836-011-0227	7-1-2008	Adopt	8-1-2008	836-053-0065	2-11-2008	Amend	3-1-2008
836-011-0227	7-29-2008	Adopt	9-1-2008	836-053-0065(T)	2-11-2008	Repeal	3-1-2008
836-011-0235	7-1-2008	Adopt	8-1-2008	836-053-0081	4-18-2008	Adopt	6-1-2008
836-011-0235	7-29-2008	Adopt	9-1-2008	836-053-0910	12-21-2007	Amend(T)	2-1-2008
836-024-0056	7-1-2008	Repeal	8-1-2008	836-053-0910	6-18-2008	Amend	8-1-2008
836-024-0056	7-29-2008	Repeal	9-1-2008	836-053-1400	4-18-2008	Amend	6-1-2008
836-024-0061	7-1-2008	Repeal	8-1-2008	836-053-1401	9-24-2008	Adopt	11-1-2008
836-024-0061	7-29-2008	Repeal	9-1-2008	836-053-1406	9-24-2008	Adopt	11-1-2008
836-042-0045	4-7-2008	Amend	5-1-2008	836-053-1410	9-24-2008	Adopt	11-1-2008
836-042-0045	9-1-2008	Amend(T)	9-1-2008	836-053-1415	9-24-2008	Adopt	11-1-2008
836-043-0068	4-7-2008	Amend	5-1-2008	836-054-0050	1-16-2008	Repeal	3-1-2008
836-050-0300	6-30-2008	Adopt	8-1-2008	836-054-0055	1-16-2008	Repeal	3-1-2008
836-050-0300	7-29-2008	Adopt	9-1-2008	836-054-0060	1-16-2008	Repeal	3-1-2008
836-050-0305	6-30-2008	Adopt	8-1-2008	836-054-0065	1-16-2008	Repeal	3-1-2008
836-050-0305	7-29-2008	Adopt	9-1-2008	836-071-0130	12-11-2007	Amend(T)	1-1-2008
836-051-0900	8-15-2008	Adopt	9-1-2008	836-071-0130	6-2-2008	Amend	7-1-2008
836-051-0905	8-15-2008	Adopt	9-1-2008	836-071-0135	12-11-2007	Amend(T)	1-1-2008

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836-071-0135	6-2-2008	Amend	7-1-2008	837-035-0340	11-16-2007	Adopt	1-1-2008
836-071-0145	12-11-2007	Amend(T)	1-1-2008	837-039-0001	7-2-2008	Amend	8-1-2008
836-071-0145	6-2-2008	Amend	7-1-2008	837-039-0003	7-2-2008	Amend	8-1-2008
836-080-0001	8-15-2008	Amend	9-1-2008	837-039-0010	7-2-2008	Amend	8-1-2008
836-080-0095	8-15-2008	Adopt	9-1-2008	837-039-0015	7-2-2008	Amend	8-1-2008
836-080-0165	8-15-2008	Adopt	9-1-2008	837-039-0040	7-2-2008	Amend	8-1-2008
836-080-0166	9-3-2008	Adopt(T)	10-1-2008	837-039-0050	7-2-2008	Amend	8-1-2008
836-200-0105	4-7-2008	Adopt	5-1-2008	837-039-0055	7-2-2008	Amend	8-1-2008
836-200-0110	4-7-2008	Adopt	5-1-2008	837-039-0060	7-2-2008	Amend	8-1-2008
836-200-0120	4-7-2008	Adopt	5-1-2008	837-039-0070	7-2-2008	Amend	8-1-2008
836-200-0130	4-7-2008	Adopt	5-1-2008	837-039-0080	7-2-2008	Amend	8-1-2008
836-200-0140	4-7-2008	Adopt	5-1-2008	837-039-0110	7-2-2008	Amend	8-1-2008
836-200-0200	4-14-2008	Adopt	5-1-2008	837-039-0120	7-2-2008	Adopt	8-1-2008
836-200-0210	4-14-2008	Adopt	5-1-2008	837-040-0020	10-1-2008	Amend	10-1-2008
836-200-0215	4-14-2008	Adopt	5-1-2008	837-041-0050	9-1-2008	Amend	10-1-2008
836-200-0220	4-14-2008	Adopt	5-1-2008	839-001-0150	1-1-2008	Amend	2-1-2008
837-012-0520	1-25-2008	Amend(T)	3-1-2008	839-001-0153	1-1-2008	Amend	2-1-2008
837-012-0520	5-1-2008	Amend	5-1-2008	839-001-0157	1-1-2008	Repeal	2-1-2008
837-020-0035	11-30-2007	Amend(T)	1-1-2008	839-001-0160	1-1-2008	Amend	2-1-2008
837-020-0035	5-1-2008	Amend	5-1-2008	839-001-0495	1-1-2008	Adopt	2-1-2008
837-020-0040	10-1-2008	Amend	11-1-2008	839-001-0496	1-1-2008	Adopt	2-1-2008
837-020-0115	11-30-2007	Amend(T)	1-1-2008	839-001-0740	1-1-2008	Amend	2-1-2008
837-020-0115	5-1-2008	Amend	5-1-2008	839-001-0760	1-1-2008	Amend	2-1-2008
837-030-0120	10-1-2008	Amend	11-1-2008	839-002-0015	1-1-2008	Adopt	2-1-2008
837-030-0130	10-1-2008	Amend	11-1-2008	839-002-0020	1-1-2008	Adopt	2-1-2008
837-030-0140	10-1-2008	Amend	11-1-2008	839-002-0025	1-1-2008	Adopt	2-1-2008
837-030-0150	10-1-2008	Amend	11-1-2008	839-002-0030	1-1-2008	Adopt	2-1-2008
837-030-0160	10-1-2008	Amend	11-1-2008	839-002-0035	1-1-2008	Adopt	2-1-2008
837-030-0170	10-1-2008	Amend	11-1-2008	839-002-0040	1-1-2008	Adopt	2-1-2008
837-030-0180	10-1-2008	Amend	11-1-2008	839-002-0045	1-1-2008	Adopt	2-1-2008
837-030-0190	10-1-2008	Amend	11-1-2008	839-002-0050	1-1-2008	Adopt	2-1-2008
837-030-0200	10-1-2008	Amend	11-1-2008	839-002-0055	1-1-2008	Adopt	2-1-2008
837-030-0210	10-1-2008	Amend	11-1-2008	839-002-0060	1-1-2008	Adopt	2-1-2008
837-030-0220	10-1-2008	Amend	11-1-2008	839-002-0065	1-1-2008	Adopt	2-1-2008
837-030-0230	10-1-2008	Amend	11-1-2008	839-002-0070	1-1-2008	Adopt	2-1-2008
837-030-0235	10-1-2008	Amend	11-1-2008	839-002-0080	1-1-2008	Adopt	2-1-2008
837-030-0240	10-1-2008	Amend	11-1-2008	839-003-0005	1-1-2008	Amend	2-1-2008
837-030-0250	10-1-2008	Amend	11-1-2008	839-003-0005	3-25-2008	Amend(T)	5-1-2008
837-030-0260	10-1-2008	Amend	11-1-2008	839-003-0010	3-25-2008	Amend(T)	5-1-2008
837-030-0270	10-1-2008	Amend	11-1-2008	839-003-0020	1-1-2008	Amend	2-1-2008
837-030-0280	10-1-2008	Amend	11-1-2008	839-003-0020	3-25-2008	Amend(T)	5-1-2008
837-035-0000	11-16-2007	Adopt	1-1-2008	839-003-0025	3-25-2008	Amend(T)	5-1-2008
837-035-0020	11-16-2007	Adopt	1-1-2008	839-003-0040	3-25-2008	Amend(T)	5-1-2008
837-035-0040	11-16-2007	Adopt	1-1-2008	839-003-0045	3-25-2008	Amend(T)	5-1-2008
837-035-0060	11-16-2007	Adopt	1-1-2008	839-003-0050	3-25-2008	Amend(T)	5-1-2008
837-035-0080	11-16-2007	Adopt	1-1-2008	839-003-0055	1-1-2008	Amend	2-1-2008
837-035-0100	11-16-2007	Adopt	1-1-2008	839-003-0055	3-25-2008	Amend(T)	5-1-2008
837-035-0120	11-16-2007	Adopt	1-1-2008	839-003-0060	1-1-2008	Amend	2-1-2008
837-035-0140	11-16-2007	Adopt	1-1-2008	839-003-0060	3-25-2008	Amend(T)	5-1-2008
837-035-0160	11-16-2007	Adopt	1-1-2008	839-003-0065	3-25-2008	Amend(T)	5-1-2008
837-035-0180	11-16-2007	Adopt	1-1-2008	839-003-0070	3-25-2008	Amend(T)	5-1-2008
837-035-0200	11-16-2007	Adopt	1-1-2008	839-003-0080	1-1-2008	Amend	2-1-2008
837-035-0220	11-16-2007	Adopt	1-1-2008	839-003-0080	3-25-2008	Amend(T)	5-1-2008
837-035-0240	11-16-2007	Adopt	1-1-2008	839-003-0085	3-25-2008	Amend(T)	5-1-2008
837-035-0260	11-16-2007	Adopt	1-1-2008	839-003-0090	1-1-2008	Amend	2-1-2008
837-035-0280	11-16-2007	Adopt	1-1-2008	839-003-0090	3-25-2008	Amend(T)	5-1-2008
837-035-0300	11-16-2007	Adopt	1-1-2008	839-003-0095	3-25-2008	Amend(T)	5-1-2008
837-035-0320	11-16-2007	Adopt	1-1-2008	839-003-0100	3-25-2008	Amend(T)	5-1-2008

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839-003-0200	3-25-2008	Amend(T)	5-1-2008	839-006-0405	1-1-2008	Repeal	2-1-2008
839-003-0205	1-1-2008	Adopt	2-1-2008	839-006-0410	1-1-2008	Repeal	2-1-2008
839-003-0205	3-25-2008	Amend(T)	5-1-2008	839-006-0415	1-1-2008	Repeal	2-1-2008
839-003-0210	1-1-2008	Adopt	2-1-2008	839-006-0425	1-1-2008	Repeal	2-1-2008
839-003-0210	3-25-2008	Amend(T)	5-1-2008	839-007-0075	1-1-2008	Adopt	2-1-2008
839-003-0215	1-1-2008	Adopt	2-1-2008	839-009-0210	1-1-2008	Amend	2-1-2008
839-003-0215	3-25-2008	Amend(T)	5-1-2008	839-009-0240	1-1-2008	Amend	2-1-2008
839-003-0220	1-1-2008	Adopt	2-1-2008	839-009-0250	1-1-2008	Amend	2-1-2008
839-003-0220	3-25-2008	Amend(T)	5-1-2008	839-009-0260	1-1-2008	Amend	2-1-2008
839-003-0225	1-1-2008	Adopt	2-1-2008	839-009-0280	1-1-2008	Amend	2-1-2008
839-003-0225	3-25-2008	Amend(T)	5-1-2008	839-009-0320	1-1-2008	Amend	2-1-2008
839-003-0230	1-1-2008	Adopt	2-1-2008	839-009-0325	1-1-2008	Adopt	2-1-2008
839-003-0230	3-25-2008	Amend(T)	5-1-2008	839-009-0330	1-1-2008	Adopt	2-1-2008
839-003-0235	1-1-2008	Adopt	2-1-2008	839-009-0335	1-1-2008	Adopt	2-1-2008
839-003-0235	3-25-2008	Amend(T)	5-1-2008	839-009-0340	1-1-2008	Adopt	2-1-2008
839-003-0240	1-1-2008	Adopt	2-1-2008	839-009-0345	1-1-2008	Adopt	2-1-2008
839-003-0240	3-25-2008	Amend(T)	5-1-2008	839-009-0350	1-1-2008	Adopt	2-1-2008
839-003-0245	1-1-2008	Adopt	2-1-2008	839-009-0355	1-1-2008	Adopt	2-1-2008
839-003-0245	3-25-2008	Amend(T)	5-1-2008	839-009-0360	1-1-2008	Adopt	2-1-2008
839-005-0000	1-1-2008	Amend	2-1-2008	839-009-0362	1-1-2008	Adopt	2-1-2008
839-005-0000	3-25-2008	Amend(T)	5-1-2008	839-009-0363	1-1-2008	Adopt	2-1-2008
839-005-0003	1-1-2008	Amend	2-1-2008	839-009-0365	1-1-2008	Adopt	2-1-2008
839-005-0003	3-25-2008	Amend(T)	5-1-2008	839-010-0000	1-1-2008	Amend	2-1-2008
839-005-0010	1-1-2008	Amend	2-1-2008	839-010-0010	1-1-2008	Amend	2-1-2008
839-005-0010	3-25-2008	Amend(T)	5-1-2008	839-010-0020	1-1-2008	Amend	2-1-2008
839-005-0016	1-1-2008	Adopt	2-1-2008	839-010-0040	1-1-2008	Amend	2-1-2008
839-005-0016	3-25-2008	Amend(T)	5-1-2008	839-010-0100	1-1-2008	Amend	2-1-2008
839-005-0021	1-1-2008	Amend	2-1-2008	839-010-0110	1-1-2008	Repeal	2-1-2008
839-005-0026	1-1-2008	Amend	2-1-2008	839-015-0140	1-1-2008	Amend	2-1-2008
839-005-0026	3-25-2008	Amend(T)	5-1-2008	839-015-0141	5-5-2008	Amend(T)	6-1-2008
839-005-0030	1-1-2008	Amend	2-1-2008	839-015-0141	6-23-2008	Amend	8-1-2008
839-005-0033	8-6-2008	Adopt	9-1-2008	839-015-0508	1-1-2008	Amend	2-1-2008
839-005-0195	1-1-2008	Adopt	2-1-2008	839-015-0509	1-1-2008	Adopt	2-1-2008
839-005-0195	3-25-2008	Amend(T)	5-1-2008	839-015-0605	3-10-2008	Amend	4-1-2008
839-005-0200	1-1-2008	Adopt	2-1-2008	839-020-0012	1-1-2008	Amend	2-1-2008
839-005-0200	3-25-2008	Amend(T)	5-1-2008	839-020-0015	1-1-2008	Amend	2-1-2008
839-005-0205	1-1-2008	Adopt	2-1-2008	839-020-0050	1-1-2008	Amend	2-1-2008
839-005-0205	3-25-2008	Amend(T)	5-1-2008	839-020-0050	7-8-2008	Amend	8-1-2008
839-005-0210	1-1-2008	Adopt	2-1-2008	839-020-0050	9-23-2008	Amend(T)	11-1-2008
839-005-0215	1-1-2008	Adopt	2-1-2008	839-020-0051	1-1-2008	Adopt	2-1-2008
839-005-0220	1-1-2008	Adopt	2-1-2008	839-020-0080	1-1-2008	Amend	2-1-2008
839-005-0220	3-25-2008	Amend(T)	5-1-2008	839-020-0260	1-1-2008	Amend	2-1-2008
839-006-0105	1-1-2008	Amend	2-1-2008	839-020-1010	1-1-2008	Amend	2-1-2008
839-006-0130	1-1-2008	Amend	2-1-2008	839-021-0001	7-8-2008	Repeal	8-1-2008
839-006-0131	1-1-2008	Amend	2-1-2008	839-022-0000	7-8-2008	Amend	8-1-2008
839-006-0135	1-1-2008	Amend	2-1-2008	839-022-0005	7-8-2008	Repeal	8-1-2008
839-006-0136	1-1-2008	Amend	2-1-2008	839-022-0010	7-8-2008	Amend	8-1-2008
839-006-0150	1-1-2008	Amend	2-1-2008	839-022-0020	7-8-2008	Repeal	8-1-2008
839-006-0200	6-6-2008	Amend	7-1-2008	839-022-0025	7-8-2008	Repeal	8-1-2008
839-006-0244	6-6-2008	Amend	7-1-2008	839-022-0030	7-8-2008	Repeal	8-1-2008
839-006-0255	6-6-2008	Amend	7-1-2008	839-022-0035	7-8-2008	Repeal	8-1-2008
839-006-0270	6-6-2008	Amend	7-1-2008	839-022-0040	7-8-2008	Repeal	8-1-2008
839-006-0275	6-6-2008	Amend	7-1-2008	839-022-0045	7-8-2008	Repeal	8-1-2008
839-006-0290	6-6-2008	Amend	7-1-2008	839-022-0050	7-8-2008	Repeal	8-1-2008
839-006-0300	6-6-2008	Amend	7-1-2008	839-022-0055	7-8-2008	Repeal	8-1-2008
839-006-0330	6-6-2008	Amend	7-1-2008	839-022-0060	7-8-2008	Repeal	8-1-2008
839-006-0335	6-6-2008	Amend	7-1-2008	839-022-0100	7-8-2008	Adopt	8-1-2008

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839-022-0110	7-8-2008	Adopt	8-1-2008	839-025-0700	9-25-2008	Amend	11-1-2008
839-022-0115	7-8-2008	Adopt	8-1-2008	839-025-0700	10-1-2008	Amend	11-1-2008
839-022-0120	7-8-2008	Adopt	8-1-2008	839-025-0700	10-8-2008	Amend	11-1-2008
839-022-0125	7-8-2008	Adopt	8-1-2008	839-025-0750	4-23-2008	Amend	6-1-2008
839-022-0130	7-8-2008	Adopt	8-1-2008	839-025-0750	6-5-2008	Amend	7-1-2008
839-022-0135	7-8-2008	Adopt	8-1-2008	839-050-0020	7-11-2008	Amend	8-1-2008
839-022-0140	7-8-2008	Adopt	8-1-2008	839-050-0445	7-29-2008	Adopt(T)	9-1-2008
839-022-0145	7-8-2008	Adopt	8-1-2008	845-001-0007	4-1-2008	Amend	5-1-2008
839-022-0150	7-8-2008	Adopt	8-1-2008	845-002-0200	9-1-2008	Adopt	10-1-2008
839-022-0155	7-8-2008	Adopt	8-1-2008	845-002-0210	9-1-2008	Adopt	10-1-2008
839-022-0160	7-8-2008	Adopt	8-1-2008	845-002-0220	9-1-2008	Adopt	10-1-2008
839-022-0165	7-8-2008	Adopt	8-1-2008	845-002-0230	9-1-2008	Adopt	10-1-2008
839-025-0004	1-1-2008	Amend	2-1-2008	845-002-0240	9-1-2008	Adopt	10-1-2008
839-025-0005	1-1-2008	Adopt	2-1-2008	845-002-0250	9-1-2008	Adopt	10-1-2008
839-025-0007	1-1-2008	Amend	2-1-2008	845-002-0260	9-1-2008	Adopt	10-1-2008
839-025-0008	1-1-2008	Amend	2-1-2008	845-002-0270	9-1-2008	Adopt	10-1-2008
839-025-0008	3-10-2008	Amend	4-1-2008	845-002-0280	9-1-2008	Adopt	10-1-2008
839-025-0010	1-1-2008	Amend	2-1-2008	845-002-0290	9-1-2008	Adopt	10-1-2008
839-025-0013	1-1-2008	Amend	2-1-2008	845-002-0300	9-1-2008	Adopt	10-1-2008
839-025-0015	3-10-2008	Amend	4-1-2008	845-002-0310	9-1-2008	Adopt	10-1-2008
839-025-0020	1-1-2008	Amend	2-1-2008	845-002-0320	9-1-2008	Adopt	10-1-2008
839-025-0025	1-1-2008	Amend	2-1-2008	845-002-0330	9-1-2008	Adopt	10-1-2008
839-025-0035	1-1-2008	Amend	2-1-2008	845-003-0670	2-1-2008	Amend	3-1-2008
839-025-0037	1-1-2008	Amend	2-1-2008	845-004-0001	7-1-2008	Amend	7-1-2008
839-025-0080	1-1-2008	Amend	2-1-2008	845-005-0311	7-1-2008	Amend	7-1-2008
839-025-0085	1-1-2008	Amend	2-1-2008	845-005-0320	11-1-2008	Amend	11-1-2008
839-025-0090	1-1-2008	Amend	2-1-2008	845-005-0340	11-1-2008	Repeal	11-1-2008
839-025-0095	1-1-2008	Amend	2-1-2008	845-005-0416	1-1-2008	Adopt(T)	1-1-2008
839-025-0100	1-1-2008	Amend	2-1-2008	845-005-0416	4-18-2008	Amend(T)	6-1-2008
839-025-0150	1-1-2008	Amend	2-1-2008	845-005-0416	6-29-2008	Adopt	7-1-2008
839-025-0200	1-1-2008	Amend	2-1-2008	845-005-0416(T)	4-18-2008	Suspend	6-1-2008
839-025-0210	1-1-2008	Amend	2-1-2008	845-005-0417	1-1-2008	Adopt(T)	1-1-2008
839-025-0220	1-1-2008	Amend	2-1-2008	845-005-0417	4-18-2008	Amend(T)	6-1-2008
839-025-0230	1-1-2008	Amend	2-1-2008	845-005-0417	6-29-2008	Adopt	7-1-2008
839-025-0310	1-1-2008	Amend	2-1-2008	845-005-0417(T)	4-18-2008	Suspend	6-1-2008
839-025-0315	1-1-2008	Adopt	2-1-2008	845-005-0420	1-1-2008	Amend(T)	1-1-2008
839-025-0340	1-1-2008	Amend	2-1-2008	845-005-0420	6-29-2008	Amend	7-1-2008
839-025-0500	1-1-2008	Amend	2-1-2008	845-005-0422	1-1-2008	Suspend	1-1-2008
839-025-0520	1-1-2008	Amend	2-1-2008	845-005-0422	6-29-2008	Repeal	7-1-2008
839-025-0530	1-1-2008	Amend	2-1-2008	845-005-0423	1-1-2008	Suspend	1-1-2008
839-025-0540	1-1-2008	Amend	2-1-2008	845-005-0423	6-29-2008	Repeal	7-1-2008
839-025-0700	11-23-2007	Amend	1-1-2008	845-005-0424	1-1-2008	Amend(T)	1-1-2008
839-025-0700	1-1-2008	Amend	2-1-2008	845-005-0424	6-29-2008	Amend	7-1-2008
839-025-0700	1-4-2008	Amend	2-1-2008	845-005-0425	1-1-2008	Adopt(T)	1-1-2008
839-025-0700	1-11-2008	Amend	2-1-2008	845-005-0425	6-29-2008	Adopt	7-1-2008
839-025-0700	2-21-2008	Amend	4-1-2008	845-005-0426	1-1-2008	Adopt(T)	1-1-2008
839-025-0700	3-13-2008	Amend	4-1-2008	845-005-0426	6-29-2008	Adopt	7-1-2008
839-025-0700	4-1-2008	Amend	5-1-2008	845-005-0430	2-18-2008	Adopt(T)	3-1-2008
839-025-0700	4-14-2008	Amend	5-1-2008	845-005-0430(T)	3-17-2008	Suspend	5-1-2008
839-025-0700	4-24-2008	Amend	6-1-2008	845-005-0440	1-1-2008	Amend	2-1-2008
839-025-0700	4-30-2008	Amend	6-1-2008	845-006-0335	7-1-2008	Amend	7-1-2008
839-025-0700	6-11-2008	Amend	7-1-2008	845-006-0340	1-1-2008	Amend	2-1-2008
839-025-0700	6-18-2008	Amend	8-1-2008	845-006-0340	6-1-2008	Amend	6-1-2008
839-025-0700	6-26-2008	Amend	8-1-2008	845-006-0391	1-1-2008	Adopt(T)	1-1-2008
839-025-0700	7-1-2008	Amend	8-1-2008	845-006-0391	4-18-2008	Amend(T)	6-1-2008
839-025-0700	7-10-2008	Amend	8-1-2008	845-006-0391	6-29-2008	Adopt	7-1-2008
839-025-0700	7-30-2008	Amend	9-1-2008	845-006-0391(T)	4-18-2008	Suspend	6-1-2008

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845-006-0392	4-18-2008	Amend(T)	6-1-2008	847-017-0010	4-24-2008	Amend	6-1-2008
845-006-0392	6-29-2008	Adopt	7-1-2008	847-020-0140	7-21-2008	Amend	9-1-2008
845-006-0392(T)	4-18-2008	Suspend	6-1-2008	847-020-0155	1-22-2008	Amend	3-1-2008
845-006-0395	1-1-2008	Suspend	1-1-2008	847-020-0160	7-21-2008	Amend	9-1-2008
845-006-0395	6-29-2008	Repeal	7-1-2008	847-020-0170	7-21-2008	Amend	9-1-2008
845-006-0396	1-1-2008	Amend(T)	1-1-2008	847-020-0183	1-22-2008	Amend	3-1-2008
845-006-0396	4-18-2008	Amend(T)	6-1-2008	847-023-0005	1-22-2008	Amend	3-1-2008
845-006-0396	6-29-2008	Amend	7-1-2008	847-025-0000	7-15-2008	Amend(T)	8-1-2008
845-006-0396(T)	4-18-2008	Suspend	6-1-2008	847-035-0030	4-24-2008	Amend	6-1-2008
845-006-0398	1-1-2008	Suspend	1-1-2008	847-035-0030	7-21-2008	Amend	9-1-2008
845-006-0398	6-29-2008	Repeal	7-1-2008	847-050-0020	1-22-2008	Amend	3-1-2008
845-006-0400	1-1-2008	Adopt(T)	1-1-2008	847-050-0037	7-21-2008	Amend	9-1-2008
845-006-0400	6-29-2008	Adopt	7-1-2008	847-070-0005	7-21-2008	Amend	9-1-2008
845-006-0401	1-1-2008	Adopt(T)	1-1-2008	847-070-0016	4-24-2008	Amend(T)	6-1-2008
845-006-0401	6-29-2008	Adopt	7-1-2008	847-070-0016	7-21-2008	Amend	9-1-2008
845-006-0451	2-18-2008	Adopt(T)	3-1-2008	847-080-0010	4-24-2008	Amend	6-1-2008
845-006-0451(T)	3-17-2008	Suspend	5-1-2008	847-080-0018	4-24-2008	Amend	6-1-2008
845-006-0459	11-1-2008	Adopt	11-1-2008	848-035-0020	2-19-2008	Amend(T)	4-1-2008
845-006-0460	11-1-2008	Amend	11-1-2008	850-010-0005	6-11-2008	Amend	7-1-2008
845-006-0461	11-1-2008	Amend	11-1-2008	850-030-0020	6-10-2008	Amend	6-1-2008
845-006-0462	11-1-2008	Amend	11-1-2008	850-030-0035	6-10-2008	Amend	6-1-2008
845-006-0463	11-1-2008	Amend	11-1-2008	850-030-0090	6-10-2008	Amend	6-1-2008
845-006-0464	11-1-2008	Amend	11-1-2008	850-030-0195	6-10-2008	Amend	6-1-2008
845-006-0465	11-1-2008	Amend	11-1-2008	850-050-0120	6-11-2008	Amend	7-1-2008
845-006-0466	11-1-2008	Amend	11-1-2008	850-060-0225	2-19-2008	Amend	4-1-2008
845-006-0467	11-1-2008	Repeal	11-1-2008	850-060-0225	3-21-2008	Amend	5-1-2008
845-006-0468	11-1-2008	Repeal	11-1-2008	850-060-0225	6-11-2008	Amend	7-1-2008
845-006-0469	11-1-2008	Amend	11-1-2008	850-060-0226	2-19-2008	Amend	4-1-2008
845-007-0015	1-1-2008	Amend	2-1-2008	850-060-0226	3-21-2008	Amend	5-1-2008
845-008-0045	7-1-2008	Amend	7-1-2008	850-060-0226	6-11-2008	Amend	7-1-2008
845-015-0118	7-1-2008	Amend	7-1-2008	851-021-0005	6-24-2008	Amend	8-1-2008
845-015-0141	1-1-2008	Adopt(T)	1-1-2008	851-021-0010	6-24-2008	Amend	8-1-2008
845-015-0141	6-29-2008	Adopt	7-1-2008	851-021-0015	6-24-2008	Amend	8-1-2008
845-015-0148	7-1-2008	Amend	7-1-2008	851-021-0020	6-24-2008	Amend	8-1-2008
845-015-0165	1-1-2008	Amend	2-1-2008	851-021-0025	6-24-2008	Amend	8-1-2008
845-015-0175	9-1-2008	Amend	10-1-2008	851-021-0040	6-24-2008	Amend	8-1-2008
845-015-0177	9-1-2008	Amend	10-1-2008	851-021-0045	6-24-2008	Amend	8-1-2008
845-015-0190	7-1-2008	Amend	7-1-2008	851-021-0050	6-24-2008	Amend	8-1-2008
845-020-0035	3-16-2008	Amend	3-1-2008	851-021-0055	6-24-2008	Amend	8-1-2008
847-001-0030	5-16-2008	Adopt(T)	7-1-2008	851-021-0060	6-24-2008	Amend	8-1-2008
847-005-0005	1-22-2008	Amend	3-1-2008	851-021-0065	6-24-2008	Amend	8-1-2008
847-005-0005	7-21-2008	Amend	9-1-2008	851-021-0070	6-24-2008	Amend	8-1-2008
847-008-0005	7-21-2008	Amend	9-1-2008	851-021-0090	6-24-2008	Amend	8-1-2008
847-008-0015	4-24-2008	Amend	6-1-2008	851-021-0120	6-24-2008	Amend	8-1-2008
847-008-0018	4-24-2008	Adopt	6-1-2008	851-045-0000	6-24-2008	Repeal	8-1-2008
847-008-0022	4-24-2008	Amend	6-1-2008	851-045-0005	6-24-2008	Repeal	8-1-2008
847-008-0023	4-24-2008	Amend	6-1-2008	851-045-0010	6-24-2008	Repeal	8-1-2008
847-008-0036	7-21-2008	Adopt	9-1-2008	851-045-0015	11-21-2007	Amend	1-1-2008
847-008-0037	1-22-2008	Amend	3-1-2008	851-045-0015	6-24-2008	Repeal	8-1-2008
847-008-0037	4-24-2008	Amend	6-1-2008	851-045-0016	6-24-2008	Repeal	8-1-2008
847-008-0040	7-21-2008	Amend	9-1-2008	851-045-0020	6-24-2008	Repeal	8-1-2008
847-008-0055	1-22-2008	Amend	3-1-2008	851-045-0025	6-24-2008	Repeal	8-1-2008
847-010-0060	1-22-2008	Amend	3-1-2008	851-045-0030	6-24-2008	Adopt	8-1-2008
847-010-0064	1-22-2008	Amend	3-1-2008	851-045-0040	6-24-2008	Adopt	8-1-2008
847-010-0070	1-22-2008	Amend	3-1-2008	851-045-0050	6-24-2008	Adopt	8-1-2008
847-010-0073	1-22-2008	Amend	3-1-2008	851-045-0060	6-24-2008	Adopt	8-1-2008
847-012-0000	7-21-2008	Amend	9-1-2008	851-045-0070	6-24-2008	Adopt	8-1-2008

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851-045-0100	6-24-2008	Adopt	8-1-2008	855-041-0400	2-20-2008	Am. & Ren.	4-1-2008
851-056-0004	6-24-2008	Amend	8-1-2008	855-041-0500	2-20-2008	Am. & Ren.	4-1-2008
851-056-0006	6-24-2008	Amend	8-1-2008	855-041-0510	2-20-2008	Am. & Ren.	4-1-2008
851-056-0010	6-24-2008	Amend	8-1-2008	855-041-0520	2-20-2008	Am. & Ren.	4-1-2008
851-056-0012	11-21-2007	Amend	1-1-2008	855-042-0020	2-20-2008	Am. & Ren.	4-1-2008
851-056-0012	2-25-2008	Amend	4-1-2008	855-045-0200	2-20-2008	Adopt	4-1-2008
851-056-0012	6-24-2008	Amend	8-1-2008	855-045-0210	2-20-2008	Adopt	4-1-2008
851-056-0016	6-24-2008	Amend	8-1-2008	855-045-0220	2-20-2008	Adopt	4-1-2008
851-056-0018	6-24-2008	Amend	8-1-2008	855-045-0230	2-20-2008	Adopt	4-1-2008
851-056-0026	6-24-2008	Amend	8-1-2008	855-045-0250	2-20-2008	Adopt	4-1-2008
851-061-0020	2-25-2008	Amend	4-1-2008	855-045-0260	2-20-2008	Adopt	4-1-2008
851-061-0030	2-25-2008	Amend	4-1-2008	855-045-0270	2-20-2008	Adopt	4-1-2008
851-061-0050	6-24-2008	Amend	8-1-2008	855-055-0005	2-20-2008	Repeal	4-1-2008
851-061-0070	6-24-2008	Amend	8-1-2008	855-055-0010	2-20-2008	Repeal	4-1-2008
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851-061-0090	2-25-2008	Amend	4-1-2008	855-055-0020	2-20-2008	Repeal	4-1-2008
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